

COMMISSIONERS PROCEEDINGS
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The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Stanton, Pridemore, and Morris, Chair, present.

[It was decided to change the order of the agenda, beginning with the Board of Health portion.]

Convened as the Board of Health.

PUBLIC COMMENT

There was no public comment.

CONSENT AGENDA

There being no public comment, **MOVED** by Stanton to approve consent agenda items 1 through 2. Board Members Morris, Stanton, and Pridemore voted aye. Motion carried. (See tape 100)

Reconvened as the Board of Commissioners

BID AWARD CRP 330822

Reconvened a public hearing for Bid Award CRP 330822 – NW 149th Street between NW 21st Avenue & NW 2nd Avenue. Mike Westerman, General Services, stated that due to the lack of sufficient bids from the contracting community, along with the fact that both bids came in substantially higher than the Engineer's Estimate, Purchasing and Public Works believe that it's in the county's best interest to reevaluate the contract documents and rebid the project at a future point in time. Therefore, Purchasing and Public Works recommend the rejection of CRP 330822.

Commissioner Morris asked Westerman what their intention was for proceeding.

Westerman responded that it's such a small project and the idea is to possibly incorporate it into a bigger project in order to generate more interest.

There being no public comment, **MOVED** by Pridemore to reject award of Bid CRP 330822, returning it to staff for reevaluation. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 100)

BID AWARD 2370

Reconvened a public hearing for Bid 2370 – Annual Printing of Clark County Voters Pamphlet. Mike Westerman, General Services, read a memo from General Services recommending award to the lowest bidder. There being no public comment, **MOVED** by Stanton to award Bid 2370 to Signature Graphics of Portland, Oregon as follows:

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Category 1 - \$8,382.51, including Washington State sales tax; Category 2 - \$10,505.27, including Washington State sales tax; and Category 3 - \$12,560.19, including Washington State sales tax, and to grant authority to the County Administrator to sign all bid-related contracts. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 100)

PUBLIC COMMENT

There was no public comment.

CONSENT AGENDA

There being no public comment, **MOVED** by Pridemore to approve items 1 through 12. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 100)

PUBLIC HEARING: HOME BUSINESS ORDINANCE

Held a public hearing to consider the adoption of a new home business ordinance to replace Clark County Code 40.260.100. Hearing continued from May 24, 2004.

[Please note: this was typed verbatim with the exception of any “uh, um” type terms and when the same word is repeated several times as in a false start sentence.]

MORRIS: Now we are ready for what everyone’s here for today, which is the continued hearing on a proposed ordinance regulating home business ordinance.

I just wanted to give a little bit of background and history and then visit with the board for a minute or two. The board does not – we are precluded by law from having conversations among ourselves in anything other than a public setting on decisions that we are going to make. So the board has had absolutely no opportunity to talk between the three of us about any of the testimony that we received last Monday evening, a week

ago yesterday. I know that I have a number of items of concern that I would like to visit with the board about this morning. I spent quite a bit of time on this over the weekend and I would expect that both of the other commissioners may have as well. So before we make a decision on whether or not to reopen this for public testimony this morning, I’m going to give the three of us just a few minutes to talk among ourselves. We will try to

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talk loud enough so that you can hear us and our conversation is recorded. You can see by leaning over that it's difficult to have a conversation on either side of you – you have to be leaning into the microphone – but we'll do the very best that we can.

I want to start just by clarifying a little bit about the history of this ordinance as I remember it because there has been – Ms. Levanen, we received a lengthy document from you that was, as always, very specific and very helpful, but there seems to be a confusion in the history of this ordinance so I want to tell you my experience with it. My experience with this ordinance began in – it must have been 1997, I believe, Commissioner Stanton, because it was prior to Commissioner Pridemore joining the board. A number of members of the Farm Forestry Association at that time came to visit with us. One of them was Dan Dapieu, who many of you may know, and we were still in the old building and we had a conversation, as I recall it was in the afternoon on a very pretty, sunny day, about a request that they had that we revisit the home occupation ordinance because there were issues arising with Code Enforcement citing people for heavy equipment storage, and there were issues arising on the use of heavy equipment normally used for timber for other purposes. We decided that we would move forward and I can't remember why we didn't move forward as expeditiously as we thought. There may have been some conversations. We may have even had an initial conversation or a group of people working on it. Mr. Lowry, I see that your face is at least moving with me here so I'm not entirely incorrect. Then my next recollection of a discussion is shortly after, or sometime after, Commissioner Pridemore had joined the board, when a number of people came during public comment. Again, this must have been early '99, right in there sometime – we were still in the other building. And Lonnie Moss was with the group that morning, and it must have been 1999, and there were a number of people that morning who also were asking us to hurry up our discussions on the home occupation ordinance. That was the point in time when we began to undertake the work seriously. So it's never been – I just want to reassure you, Ms. Levanen – it has never been a staff-driven ordinance revision. It has always been a process of trying to respond to requests that were coming from some of the people being affected by the home occupation

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ordinance that was in affect at that time. That very same home occupation ordinance is the one that is currently county code.

Now, the piece that we have in front of us has been through any number of iterations and work sessions and task forces and I believe, Mr. Lewis, you noted that you had followed the rule making and the code development process on this since 2001. The first discussion of this did not occur at the large public forum in Battle Ground a number of years. It had been going on for quite a while before that. The Rural Business Coalition advanced its own suggested ordinance sometime shortly after the public meeting in Battle Ground, where the board decided that they would probably take over custody, again, of development of this code. So that is where we are today and the Planning Commission has made a recommendation. The BIA of Southwest Washington has suggested some sort of minimal functional changes to the existing ordinance. The Rural Business Coalition still has their document included in our notebooks, and those were all there for us to take a look at. The testimony that we had Monday night was extremely helpful for me. It helped to put faces on the discussion and particularly those pieces of testimony – and I met a lady, again in the elevator, this morning who has a paint business and the specific kinds of things that she was telling us were extremely helpful. So I have some notes and thoughts that I would like to talk about this morning. I've done all the talking here, so let me hear what the other commissioners may...

STANTON: I agree with you on the comments about how long this has taken, and Ms. Levanen's comments about the process, and I think Susan Gilbert gave us the same kinds of comments about the process. It's been a long time. It changes fairly dramatically from one version to another. I think I've read, like, six versions of the code here. This is one example of where the public process piece itself has helped to make this a very iterative process and certainly I was learning a lot even as of Monday night and a number of comments have come in since then...and things that I hadn't even considered about the kinds of businesses that are happening, and have been happening for years, in the rural areas. I think the reason we're dealing with this now, and finally, is that we've got this

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growing population and so the conflicts are becoming more apparent. We need to deal with it. We need to make a decision, as the man who was riding up with me in the elevator this morning said – “just make a decision so we know what the rules are.” I think I’m there too. I read through the minutes of the Planning Commission’s last meeting this weekend and find myself more in agreement with where the Planning Commission was than most of the other versions that I’ve looked at.

The main part of my wish to discuss with the board this morning is the matrix. I think the Planning Commission had dropped those last three rows off and that seems to be where a lot of the rub is, and it’s also where staff is saying it’ll be hard to quantify whether or not there’s a business operating inside the bounds of what is appropriate. For me this whole thing is about what is appropriate in residentially zoned areas. We have some other rural zoning that seems to get included in here when we refer to home businesses, but to me doesn’t have the same potential for impact as in residentially zoned land, and I’m thinking of resource zoned land, but we’ve incorporated all of it in this proposed code. I don’t know what else...I have some questions. I think some things that came up that leave me still wondering is the issue of the horse arenas and I think, Rich, in the Planning Commission minutes you suggest that that in itself, even if you’re offering lessons from a horse arena, is something different than a home business. I don’t know what it falls under, but you mentioned some kind of an entertainment –

RICH LOWRY: Private Recreational Facility.

STANTON: – Private Recreational Facility. That’s a separate piece of the code?

LOWRY: Right, and Gordy and I’ve been talking about trying to add some clarity to what kinds of uses – that otherwise might look like a home business – are exempt because they are otherwise regulated in the code. The one that came up recently was firing ranges that are extensively regulated under Title 9, including a requirement in Title

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9 for a land use conditional use permit. So they ought not to be regulated as a home business.

MORRIS: Did you say firing ranges?

LOWRY: Yes.

MORRIS: What other ones did you come up with?

LOWRY: Well, I think the one that immediately comes to mind is the horse arena.

MORRIS: Maybe we could put that on a sidebar discussion because I was liking the direction you were going with the Planning Commission recommendations ; at least as the starting point. I was intrigued by the fact that in all versions, the stated intent of the ordinance is to protect the integrity of the zoning districts and yet there's no attention to zoning districts. They're all treated exactly the same and so somewhere what I've been toying with is the idea – I think I have suggested this in the past...I didn't get very far with it – that somehow or other you have different...in different zoning districts you have different types of just completely outright allowed home occupations. They're allowed just like other kinds of things are just allowed in what are substantially single-family residential. Because when you have R-20, that is essentially a residential zone. We intended for it to be a residential zone ; not for it to be a resource zone. Resource zones are different. Resource zones are intended for commercial purposes, whether that commercial purpose is production of raspberries or the production of timber. Those are still considered commercial activities and, indeed, in the GMA are called for commercial...commercially viable. That's what they are for – they are commercial in nature. I'll just be a little random about things like this and if anything rings a bell –

STANTON: The whole thing is going to be random.

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MORRIS: One of the most troubling ones to me has been equipment storage and one of the most ridiculous implications of all of these is to some of the people whom I know in the rural area and I'll pick, for instance, the Rotchey's – and I know that there a couple of Rotchey families who do this. They are in areas that are zoned for timber; they have equipment there that would be used for timber harvest; they could use it on their properly zoned land completely legally; they can take it off of their land to somebody else's land, and as long as they use it for timber harvest or agricultural harvest, it is perfectly legal. But if they take it off of their property and they use it for habitat restoration, that's an illegal use. Now, that seems silly. It's the same equipment. You're going to take it down the same road; it's going to make the same amount of noise. It doesn't make a lot of difference what you take it off of the property to use it for. So it seems to me if you have heavy equipment that is stored on agriculturally zoned property for the purpose of doing those kinds of things, than it doesn't matter what you use it for when you take it off, and that certainly should not be considered an illegal use.

STANTON: I thought the comments Monday night, though, it was clarified that it was okay to take equipment off of resource-zoned land and use it somewhere else.

LOWRY: Under the exemption that's here, if the equipment is used for a resource purpose, than it's fine that it's taken off. I think what Commissioner Morris is indicating is if it's taken off and used for a non-resource use.

MORRIS: Well, suppose you used it for road construction.

LOWRY: Sure. Or habitat.

MORRIS: Does it matter? Does it matter? Is the noise any different? Is there a distinguishable difference? I'm asking you that.

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EULER: One of the things the task force wrestled with was this very issue. A number of times it came up and it's why the task force didn't address the type of equipment or its use. They looked at the amount of equipment, and that doesn't answer the question of what we term the hybrid user – somebody who's equipment is legal if it's painted green, but not legal if it's painted yellow. The solution to that, in the task force's thinking and negotiations, was to not address the issue, but simply recommend a limit on the amount of equipment as a way to address impact.

MORRIS: But then the effect of that is that if you have it on your property and you're using it, and you're zoned for natural resources and you use it for natural resources, you are exempt by virtue of the fact that you are exempt as a natural resource user.

EULER: That's correct. You are absolutely right. It was one of those tough nuts that the task force didn't crack, but figured out a way to say equipment is equipment regardless of how you use it, and if the issue was the amounts or the impact caused by having the equipment, then they looked at numbers rather than use.

LOWRY: Just one comment, for whatever it may be worth or not worth. From a GMA standpoint, I think the primary issue is two-fold when it comes to equipment storage or other kind of business use outside of urban growth areas. One issue is whether or not you are allowing urban development outside of the urban area, and that applies to anywhere. The other issue relates to resource land and GMA has a general requirement that we prohibit uses that are inconsistent with resource use within resource lands. So part of the reason why I think limitations were viewed appropriate by the task force was to get at those two considerations. Now, whether the numbers they drew or the approach that was taken makes sense...that's why you're sitting up there.

[Laughter]

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STANTON: Well, the key measure is the fact that the business is secondary to the residential use. To me that's the key, but that's real hard to measure sometimes. And then, additionally, I was really a proponent of the performance standards, which is if you're a good neighbor and you treat your neighbors with respect and you're not irritating them with unnecessary noise and dust and all the other things that we talked about here in performance standards. It doesn't matter how many pieces of equipment are there, if it's screened or if it's under cover. But we can't get to that and have it enforceable. That's what I keep hearing you say and that's the tough nut for me. So I really don't care how many pieces are there or what kind of equipment it is, if you're not impacting your neighbors.

MORRIS: Let me go back just a minute to what you said, that the key for you is that the business is secondary to the residence, and I would absolutely agree with you on that in the residential zone, but in the natural resource zone it's supposed to be reversed; that the use of the land for commercial production is supposed to be first, and that you live there secondarily.

STANTON: Remember, I'm only talking about residentially zoned rural land.

MORRIS: Okay...oh, okay, alright. Well, if we only talk about residentially zoned rural land, than that's an entirely different...yeah –

STANTON: Yeah, and we'd probably need to have some discussion about that because the way I'm reading what's been proposed in the ordinance...and I'm going from the one that we had testimony on Monday night; that's the one I really marked up for discussion purposes today because that's what we were hearing comments on. So when we get to the point we want to go through step-by-step and say what we like or don't like, that's the one I'm dealing with, but it doesn't talk specifically about this only pertaining to rural residential.

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MORRIS: No, it doesn't.

EULER: If I may...the current code – remember that home businesses are a special use. They're contained currently in Title 40, in 42.60, which is Special Uses and Standards. They are listed in a number of places in the Use Districts, 42.00, and it caught me sort of by surprise, as I guess it did you, when I thought, why are we allowing lots of things on resource land that would have a much greater impact than a home business, yet you had to get a home business permit. The answer is what Rich just said, that GMA says "resource uses on resource property." I was coming at it from the impact that said there's things that we allow outright on resource land that are resource related that could have far greater impact on your neighbors. The thinking is also that they are bigger parcels. On resource land, you're not as close to your neighbor. So I had to reconcile that in my own mind as to why you needed a home business permit when there were things on resource lands that could be much greater and we've carried that flavor somewhat over into this, except that we state right up in front we're exempting Ag and farm uses, that are enforced uses.

STANTON: So when you talk about protecting the integrity of zoning districts, you've brought into that integrity of resource zoned land as well to protect it for resource purposes.

EULER: If it's not explicitly stated, it's implicitly stated in that statement. Correct.

STANTON: Yeah, okay. And I see there's no disagreement. The Rural Coalition had the same wording, which may be how you wound up with this.

EULER: Well, they didn't disagree with that principal.

MORRIS: Well, let me suggest that maybe they just didn't think about it in that if you stop and think about talking about home-based business in residentially zoned land, then

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you are talking about a home-based business. But if you're talking about resource lands, you're talking, first of all, about business lands that may or may not have a home on them at all.

EULER: Right.

MORRIS: Okay. So then it seems to me that you might – if I could persuade anybody to go down that path with me – that you would treat resource lands similar to the way you treat other kinds of business lands and you would say that these are the kinds of uses that are allowed in resource lands. You would treat them differently than you would treat residential because with the exception of Ag and some timber, residential land is for houses and people to live in; that is its purpose. In residential zones, we allow Ag outright and I can't remember, but I believe that we allow timber production in residentially zoned land. So those lands have got one purpose, and then you've got other lands that have another purpose – they're business lands. They just aren't inside urban growth boundaries and they may not have office buildings, or that kind of stuff, but they're business lands. That's the way my mind works on it, which makes your zoning issues significantly different. So if you have different allowed – and I'm talking prospectively because I guess my position is I don't see how you go back...there's not a single person who spoke to us the other night that I'm willing to vote to say "I'm sorry, you're going to have to be out of business...I'm going to vote for something that I know is specifically going to put you out of business." I can only talk...my comments here are prospective comments about what would go on in the future, not what's going on now.

STANTON: So would your intent be to have two different classes – those that exist now that would never have to meet the new standards, and all new ones.

MORRIS: Well, I'd take the Planning Commission recommendations as the start, but then I'd say, "but from here on out here's the way it's going to need to work."

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STANTON: New businesses –

MORRIS: Right.

STANTON: – and then you would give the amnesty time for existing businesses to come into compliance.

MORRIS: Yes, but I have some questions about the implications of the Type II permit for different kinds of businesses and what it means to them in terms of cost, not only for the permit, but also compliance with all of the other stormwater regulations because Type II permits do – don't they have to come into compliance with all of those irrespective of what it says in this ordinance?

LOWRY: That issue really depends upon what the nature of the home business permit is. What the most recent draft contemplates is that all the home business permit is dealing with is your right to engage in a particular use. Any construction standards would depend upon whether or not you're going to be doing some construction.

MORRIS: So as long you stayed in the footprint that you have and you didn't have any expansion, you wouldn't have to do that kind of stuff?

STANTON: Right. Right.

MORRIS: Okay. Well, Mr. Homola, you're here this morning. We spent a lot of time on you the other night. Let's talk about Mr. Homola. He may as well hear us talk about him. He talks about us all the time. [Laughs] Okay, now, Mr. Homola is in R-5 – Rural 5. He has an auto repair, which is not an allowed use. It is a home occupation; he's up, he's running. He moved into an existing building. He would be grandfathered under the Planning Commission recommendations. He would have to come in and get his permit...have a certain amount of time to come in and get his permit. There are some

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minimal kinds of standards to be met here, but I think he's met all of them already. Now, does Mr. Homola have to go back and do...he doesn't have to go back and do stormwater stuff, but...? –

LOWRY: Well if he had, through some sort of past construction practice, violated then-existing codes on stormwater, he's subject to enforcement action dealing with those other codes, but it's not contemplated that the home occupation ordinance would be a vehicle to deal with that kind of an issue. The compromise that was made was essentially that if this thing is going to work, it needs to be simple and it needs to be quick. The decision was made simply not to have this be a process by which other kinds of construction standards or environmental ordinances would be reviewed. In addition to being specifically put on notice that there are certain nuisance ordinances that apply, I think the primary requirement for a preexisting business would be to come into compliance with landscaping.

MORRIS: Okay. Now, Mr. Homola probably is in violation of stormwater because I suspect from the pictures that I saw, that he either moved dirt, probably didn't get a grading permit – he might have, I don't know – but he's got more rock or more paving or something else down there than was there when he originally went. I don't expect... maybe he did have permits, I don't know, but let's say he didn't have permits to do that and he's not in compliance with what would have been required of him if he had gotten a permit. This ordinance would not be the mechanism for enforcement of that. Is that correct?

LOWRY: Correct.

MORRIS: But even if he didn't have a permit; even if he were totally legal, could somebody go complain about him being in violation or what? What goes on there? But that could happen now?

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LOWRY: Yes. I think the circumstance that really presents that most dramatically is where you have an agricultural structure that was exempt from any kind of building permit review that's being converted to a business use. I believe...if I recall correctly, the Planning Commission concluded that under certain circumstances you ought to have to prove up UCB compliance, at least where there were customers that were going to be –

STANTON: Customers or employees...

LOWRY: – or employees. Right.

MORRIS: Okay, so that takes care of Mr. Homola. What about Mr. Polos? I thought Mr. Polos was interesting because Mr. Polos is actually legal except that he's on a private road, and he says that there's no chance in the universe that all of his neighbors would agree to let him continue to operate on that private road. Oh, that was in Mr. Lewis's materials.

PRIDEMORE: Let me weigh in here a little bit, since we're on a little background stuff. Just historically, the first time I recall this coming up was when Laura Matson approached us when we were at the Battle Ground Senior Center when we were out there for Town Hall. I believe that was the summer of 1999. That was my first encounter with the issue. As I sat through the hearing last week and listened to the testimony, I've literally gone from both extremes, that is keeping the existing ordinance exactly the way it is, to just throw it open and get us completely out of it, and everywhere in between. The concerns that I have about this are issues of fairness. You know, we just talked about Mr. Homola; we didn't talk about the Carlson's. People frequently talk about these as residents who moved in next to an existing business and now start to complain about it. In this case, at least by the testimony, these are people who lived there already and the business came in afterwards, and they are being impacted by this. I'm concerned about the fairness of how this does impact the neighbors of these businesses. I'm also concerned about fairness – I hate it when issues continue to be placed as a rural versus an

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urban kind of an issue. In this case, what we have are a lot of existing businesses who have gone inside the urban area, established their businesses completely consistent with county code. They've put in for their site plan reviews. They've had all their building permits. They've played by the rules and we are considering here, or discussing to some degree, removing those rules for rural areas. I have concerns about that. If we create a circumstance where excavators, construction companies can only compete if they locate in the rural area, I think we're going to be defeating our overall comprehensive plan goals and growth management act. The issue is certainly going to come up about where do we draw an amnesty date and I would want to insure that wherever we do that, people like the Carlson's are protected from those kinds of infringements. I don't think people should be rewarded, in a sense, for violating the rules and playing by a different set than people who were in compliance. Those are my concerns going in. I'm acutely aware that this issue affects the two of you in your districts significantly more than it does mine, although we heard from Ms. Edwards at the hearing last week, who is in my area in an urban...very close to Vancouver city limits. So this issue does affect businesses inside the urban area. How we deal with it should not be an issue between urban and rural. It's an ordinance we're talking about for everybody and I've just put that on the table as a concern that I have.

STANTON: Which is why I like the Planning Commission's discussion on percentage of the land because the intense uses on the more urban-sized lots are more likely to impact neighbors than if you're talking about a 20- or 40-acre piece.

PRIDEMORE: And again it's not just an issue of the impact on neighbors, it's a question of equity between people who locate inside the urban area and outside.

STANTON: I agree to a certain extent. Somebody made the comment about these being incubator kinds of opportunities and, for me, what happens related to a business clearly became...the businesses actually carried on on the property where, for example, the repair shop...where people come there for services and the business occurs there,

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whether it's a body shop or a beauty shop. And then there are the businesses that operate out of there and certainly – I mean I can relate to businesses all up and down the street where I live where they operate from the residence and they have one little home office where they do their own bookkeeping kind of a deal, but they actually do the construction or the contracting services out somewhere else. That was one of the pieces that came up Monday night too, where the discussion had to do with the hours of the business being 7am to 8pm and what if you still are bringing back equipment, or something, after 8pm. Or going out, like the one man from Camas who talked about the emergency repairs on boilers, I think it was. Getting called out in the middle of the night, you know. But he's doing work somewhere else and it's not the same impact I don't think. The question becomes, where do you draw the line? I mean it really is how much is too much? For me, how much is too much on residentially zoned land? It's not so much the unfair competition with those located inside an urban growth boundary running a business. At some point I think people make the decision they just don't want to operate a business of this scale from their home; their personal land where they live and play and have their family over. That's that whole question about the secondary nature of the business. It's not the primary use of the land. Primarily, it's a home.

PRIDEMORE: I think it's difficult to make the primary, you know, how you draw the line on that, but it is an issue of where you draw the line. How big is it before it becomes too much? I think about companies like Alpine Auto Body and all the things Rod Cook went through to locate his auto repair shop. You know, he tried to get it at 134th and got caught up in the moratorium and all those things. This is a guy who plays by the rules, pays for the permits. He does everything he's supposed to do. To expect him to compete with somebody who can run a four-bay auto body shop without permits on land that is significantly less expensive than the urban land because of its development potential, that's not fair to that business. That's what I would be concerned about. So wherever you end up drawing that line, I would just urge that we keep that there, as well as the impacts on the (inaudible).

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STANTON: It's a scale issue; it really is.

PRIDEMORE: Yes, Ma'am.

MORRIS: And I think that that plays into what happens from here on out to anybody who tries to – if Mr. Homola tried to go do it again, he couldn't. I want to suggest that the line is the urban growth boundary; that there is a difference between urban and rural. That's what the whole GMA is about. There's urban, then there's that stuff that isn't urban. And, frankly, I think that we need more distinction between the nature of home occupations in urban areas because if you allow 25% of the space, or up to 1,000 feet, and you are in a 3,000 square foot lot subdivision, that's a third of that piece of property. If you were to apply that standard – I can't remember who said it, someone said it at the hearing Monday night – if you were to apply that same standard and allow a third of the property on a 20-acre parcel, you'd have 6 ½ acres you could use. So I guess for my part there is a clear difference between urban and rural. There's supposed to be and it's supposed to become more pronounced as time passes. Also, Rod Cook lives inside urban growth areas. He has a number of auto body shops. I doubt that he would want to relocate. **[Tape switches over to side B]** His market's here, but he's never mentioned it to me so I don't know, but I don't think that Mr. Homola ought to be able to go do this again somewhere else, not without significant discussion. And it did seem that auto repair was the predominant business that drew complaints in the statistical material that we got both from Mr. Lewis and Ms. Levanen, so that might be a category that required some sort of other special attention.

PRIDEMORE: If we're going to permit that in the discussion, I hope we'll also address the concerns that the Carlson's raised about the impact that Mr. Homola's business is having on them because I think that's just as much of a concern as his business.

MORRIS: How would you like to do that?

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PRIDEMORE: I suggest nothing. You know we talked about where the line gets drawn, how large can you be. To me, just instinctively, in looking specifically at that operation it's too big. It's too big to be located to a residential...an existing residential place and he should not have been allowed to do this much. It seems to me...this is very recent that he got started. Very potentially –

STANTON: Yeah, 2002.

MORRIS: He did. You're right.

PRIDEMORE: – and since we put in the moratorium on enforcing these regulations, that's...in this, for me, it won't be acceptable to grant an amnesty for somebody who took advantage of that situation. So however we go I'm just –

STANTON: We don't know that he took advantage of it and I don't know that it was legally established either. I don't know that there were building permits, I don't know – well, I know he didn't get a home business permit because he tried to apply for one and he was told that we weren't granting them now because we were in the process of updating this –

MORRIS: Which, by the way, I don't remember we ever said. Did we ever say that? That we weren't going to grant anymore?

STANTON: Well, we said stop enforcing.

MORRIS: But we didn't say we aren't going to grant them anymore. Did somebody else decide that?

[Inaudible remarks from the audience]

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STANTON: Yeah, he wouldn't have qualified. No.

MORRIS: Okay. Okay.

PRIDEMORE: Nobody would.

MORRIS: Well, you know, theoretically and in every other way I agree with you, Commissioner Pridemore, but frankly I'm not going to tell his people that they are without a job. I'm not willing to tell his employees at this point in time that they are without a job.

STANTON: I don't know how we phase out of the current, existing illegal uses into this amnesty process, but to me that example is a case where it's clearly the business is not secondary to the residents. It is clearly a business, and oh by the way somebody happens to live there. So to me that doesn't fit my definition of a home business.

PRIDEMORE: Unless it becomes an issue of somebody losing their job – which it certainly is going to be discussed, it was discussed last week – the same number of cars are going to need auto repair, whether Mr. Homola's in business or not. If he is not in business at this particular location, or at this particular scale, there is still going to be a demand for those workers. It's not as if these worker's simply go away, because the demand for that service is still going to be available.

MORRIS: Okay, moving on. Let's see...are we okay...do we have an agreement – at least two – that we take the Planning Commission recommendation to grandfather everybody up to the point of adoption of the ordinance. We got two on that?

PRIDEMORE: No ma'am. Not for me.

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STANTON: I think it was pretty clear that grandfather wasn't the appropriate term. Amnesty was the appropriate term, right? And the Planning Commission recommendation was that there be a year for the businesses to agree that they are going to take the next five years to come into compliance. Wasn't that what the Planning Commission came up with?

LOWRY: My recollection was that the Planning Commission rejected amnesty entirely and instead going with a looser set of rules, whether you were new or old.

MORRIS: We don't have the language from the Planning Commission. We just have a summary sheet. It says, "Existing businesses will be allowed to continue to operate. They would have one year from the ordinance enactment to decide on whether to comply with the new standards. They would have to comply with the new standards within six years." Would that mean, then, that Mr. Homola would have six years to make a decision about what he wanted to do? The new standards would be...what new standards would be, because I'm talking about different kinds of standards for residential and for...maybe it's just that we're still talking along different tracks on what comes after this.

LOWRY: The Planning Commission did not have an ordinance recommendation, per se. They had a set of talking points that they ended up agreeing to and, again, it's my recollection that because they were going to get rid of the matrix, that we didn't have the limitations that would justify a distinction between old or new.

STANTON: Well, they wanted everybody to come out the same, but they were giving existing businesses the one year to agree that they were going come into compliance, so they had a year to make up their mind if they were going to transition, and then five additional years, and whole lot of their discussion had to do with the public outreach. The notification so that businesses would know they had this opportunity to come into compliance with the new code, but that after six years – the one plus five – then all businesses would be treated equally according to the new ordinance. So they did still

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have the timeframe in there where they were basically, as I understood it, granting amnesty.

MORRIS: They didn't do away with the standard.

LOWRY: I think where they ultimately ended up was to say that we shouldn't treat new different from old except for having, if you want to call it, an amnesty period which the existing businesses would be allowed to come into compliance with the standards, but there wouldn't be a difference in standards between new and old businesses.

STANTON: Right. And the period to come into compliance was the six years.

LOWRY: Right.

STANTON: Okay. I think we're saying the same thing.

MORRIS: Well, then, let's get specific. What would happen – talk about the Matson's and the Homola's – what happens to the Homola's and what happens to the Matson's. Homola is an entirely different character. It's new. It is – I think for the most part we would agree – primarily a business with a home, but the Matson's is something different. The Matson's have been there for eternity, practically. It was where they lived, it was where they made their living, it was where they did their business, it has grown. But it's not in compliance with any of these because it's got 10 acres or larger, but I believe they've got more than six employees and they wouldn't meet the standards on the matrix, except that you've got no limits on the vehicles, equipment, or trailers.

LOWRY: I think that under the Planning Commission recommendation, the matrix largely goes away.

STANTON: Well, the last three rows that specified equipment –

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MORRIS: – Employees are still there, and then what happens to Vinton Erickson?

STANTON: They left employees in there.

MORRIS: Yeah, they did. They left employees in there. So what happens to Vinton Erickson? He shuts down?

LOWRY: Because of the number of employees?

MORRIS: Well, because he's affected by this because he has a commercial operation that sells non-land produced products on agriculturally used land. What happens? He has to come into compliance with what? And can he possibly come into compliance give allowed uses in his zone? That's not a home occupation. It started out to be, but significant elements are not –

LOWRY: To the extent that he doesn't fall within the agricultural exemption, then he would have to comply with home occupation ordinance.

MORRIS: Right. Okay.

PRIDEMORE: His is inside the urban area, isn't it?

MORRIS: Yes.

STANTON: Yes.

PRIDEMORE: So he could put in for a rezone of a portion or something. I mean there should be some –

STANTON: For commercial purposes.

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PRIDEMORE: – there should be some form – for that particular example – there should be some form of process where that could be approved.

MORRIS: Well, tell me why that particular example needs a special process when the Matson's don't get that.

PRIDEMORE: I suspect under...I mean what I would do is take any business in place from December 31, 1994, at the level of business that it was engaged in on that date, that that would be a grandfathered use – that we would simply accept those at that size. After that, and through the adoption date of the ordinance, I would grant an amnesty period and allow them to come into compliance with new regulations. Anything subsequent to the adoption date of the ordinance would need to comply with the new regulations. That would be my preferred solution here and in the Matson case hers would be grandfathered.

STANTON: So you wouldn't require the grandfathered ones to come into compliance.

PRIDEMORE: No. I wouldn't allow them to expand. I mean essentially like a nonconforming use, they wouldn't be allowed to expand any further without complying with the new regulations, but the business that was in place at the time we would grandfather mostly because administratively, it would be impossible to go out and police all these folks who've been doing this for so long.

MORRIS: I think you checked for me one time on Vinton Erickson and I think there was a recent change there. Do you recall what it was? We had this discussion awhile back. Mary, do you remember?

MARY KELTZ: [comments inaudible]

MORRIS: 1989? That's their retail outlet. Okay. Well, Commissioner Pridemore, maybe you can get Commissioner Stanton to go with you on that one, but I can't.

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STANTON: So explain why you can't. I mean, I hadn't even thought about the separate grandfathering of pre-1995 businesses. I was going with the Planning Commission idea of trying to get everybody into the same standards that are really performance-based standards.

MORRIS: Because we do have a lot of existing businesses that have been initiated and have grown and are operational during the time between when this was first brought to our attention and the time we are finally addressing it. We started as a discussion on the storage of heavy equipment and then we decided that we wanted to expand it to any number of other things. And so unless I had specific information about the Matson's, I don't know when they last expanded. I don't know whether it was 1994 or whether it was after that, but if you were to say that by arbitrarily picking 1994 that somehow or other Vinton Erickson gets to continue to do what he is doing, but people who have established businesses since 1994, who are viable in that effort – I don't know when the painting contractor...when you started your business – but it is, as far as I can tell, a date that has no particular basis underneath it. So we have a lot of people who have advanced a business and an operation and an undertaking since 1994.

PRIDEMORE: Well, the date is obviously not arbitrary. It is based on when the Growth Management Comprehensive Plan went into place, which is the one that identified for this community values of distinction between urban and rural.

MORRIS: That was '95.

PRIDEMORE: January 1, 1995 is when it took affect. I was saying December 31, 1994 as the cutoff date. They're not exactly the same, but they're very close.

STANTON: It would be very helpful to me to be going through this draft ordinance as opposed to jumping all over because these things are so interrelated.

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PRIDEMORE: Well, you've got these issues of grandfather/amnesty and it probably would be easier to identify 'what are the regulations, where are we going to draw the line?' Maybe that gives some sense of comfort about what it is if we do a grandfather, if we do an amnesty period, what are those – it might be easier to identify the impacts of that if we've identified what the regulations that we're going to put into place.

MORRIS: For all new ones.

PRIDEMORE: Yes, Ma'am.

MORRIS: Okay. I think that's a legitimate way to advance. I guess that what I would do, though, is rather than use the kind of matrix that what we've got here is I would begin with that discussion in terms of what is on resource-based land and what is on residential land. I'd begin with that, and I would pick up elements...I would say let's start with residential land, let's say this is zoned R-20; are you going to allow different kinds of home-based businesses on R-20 than on R-5 or are they all going to be the same types of business, just different size? You allow different sizes on R-20 as opposed to R-10? And within R-20 is what you allow dependent on the zoning or is it dependent on the lot size? So those are the initial questions that I would ask and I would say that essentially you allow different kinds of home business occupations or you may have some that you would allow in R-20 that you wouldn't allow in R-5, simply because if you remember the distribution of the R-20's on the map they are all at some distance from urban areas. They're all out on the edge somewhere, for the most part. There are a few of them that aren't, but for the most part they're out there because they started out as Agriforest. That's how they got to R-20.

STANTON: Well, as is supposed to happen, our deliberations cause you to start to rethink some of these issues and originally I was just wanting this to pertain to residential lands, but after our discussion this morning, after hearing from staff and from Rich, I'm

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in agreement with the purpose as it's stated currently – to protect the integrity of zoning districts as opposed to spelling out specifically residential.

MORRIS: Okay, so you would have the same things apply, then, in Ag and timber as in residential?

STANTON: In terms of a home business?

MORRIS: Uh-huh.

STANTON: As I understand the wording here, what we're talking about is protecting the integrity in the residential areas for the fact that it's residential, and protecting the integrity of resource zoned land for those resource zoned purposes. That's what I want to accept.

MORRIS: Then maybe we should specify that. Maybe we ought to spell it out a little bit more.

STANTON: It's pretty clear. That's the way that I understood it to read to start with, only I kept trying to separate out residential because my focus is on impacts. Now I understand, after Rich's explanation this morning, that according to GMA we are trying to protect the integrity of resource zoned lands for resource purposes as well and that's okay.

MORRIS: Okay, so you still are going to have significantly limited uses for resource lands. I mean I don't see why you can't store heavy equipment on resource lands. I just don't see any reason why you can't store it there.

PRIDEMORE: It is kind of hard to grow crops under a 20,000 pound vehicle or trees under it. That might have some impact.

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MORRIS: Well, you might want to limit the size of it, the size of the storage of heavy equipment, but going right back to the whole business of heavy equipment storage, that was the initial issue and either you have places to store heavy equipment in the rural areas or you don't. I don't think it's appropriate in residential; that doesn't sound right, but essentially what we're doing here is we're saying that you can store heavy equipment from here on out any place depending on the size of the lot and I guess my preference on that would be that you say the heavy equipment storage is allowed outright in resource zones and these are the restrictions on the amount of it.

STANTON: I don't think we make a distinction in here.

MORRIS: No, we don't. That's what I'm suggesting that we might want to do. So that if you have a 20-acre parcel right now you have...if you have larger...you can have 3,000 square foot of outside storage and you can have pieces of heavy equipment – I guess on 20 acres. I don't know why you can't have more. I don't see what difference it makes in a resource area.

STANTON: That might be why I like the Planning Commission approach of the lot size as opposed to square footage.

MORRIS: Well, that might be much more reasonable. Two percent would be okay, but I guess if I were talking about it from now on out I would say no, you cannot store – heavy equipment storage is not considered a home occupation and you can't store in residential. If you're there, I'm not going to tell you that you got to go, but from now on out you can't store in residential. You can store –

STANTON: And the business isn't really storing, it's keeping it there until it's used. So it's not like that's the purpose of the business is to store heavy equipment.

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MORRIS: Well, it could be. I mean, if you're on Ag land and you're not able to make much money out of your Ag land, you could at least store heavy equipment on a part of it.

PRIDEMORE: You're going to love this, but what if we just made storage of heavy equipment a conditional use on whether we call it Ag land or some other distinction, but, you know, we've talked about do we have to zone something out in the rural area for light manufacturing. Rather than doing that, just make a conditional use and let people get to it that way. That way, we make sure however they go about doing it it's not running fuels and oil into creeks, and everything else; we've still got those kinds of restrictions, but it would open up a lot of potential for different folks if that's their preferred thing and that's the type business they would in...storage of—

MORRIS: Actually, that's not a bad idea except I'm not sure I'd still allow it in residential.

PRIDEMORE: Well, maybe that's the distinction. Maybe we say it's Ag or resource lands, you make this as a conditional use and put whatever parameters on that we need to protect the resource use and the environmental impacts.

MORRIS: You can limit the size of it and you would want to limit the size of it.

EULER: Attachment 5 in the staff report, if you have that with you, says, just for your information, about 21 of the 29,000 rural parcels are zoned R, so that leaves about 8,000 that are zoned resource. I believe that's why the task force said we don't want to prohibit it anywhere; we just want to limit it everywhere.

MORRIS: Well, then you could make it a conditional use on larger...or different —

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STANTON: When you're going outside the...whatever is the acceptable limit to go to the conditional use; establish an acceptable limit that everybody could have and then if you want to go beyond that, then you go through the conditional use process.

PRIDEMORE: Sure, sure. Okay.

MORRIS: And would you tie that to the size of the parcel, as well as zoning, or just to the size of the parcel?

STANTON: I would tie it to the size of the parcel, I think.

PRIDEMORE: I would tie it probably to both, but it seems to me it gets to the heavy equipment issue and what's allowed –

MORRIS: Right, it does.

PRIDEMORE: – a lot easier then some of the other things we've talked about.

MORRIS: Okay, so we could make it a conditional use. We're not exactly sure how yet, but that we're sort of thinking -- that that's an okay thing.

STANTON: Conditional use if you get beyond the threshold of whatever it is that we establish today as acceptable.

MORRIS: Today or tomorrow or whenever we get it done, yeah.

LOWRY: The primary issue with making a conditional use has been concern about the cost and the process.

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STANTON: But if you're going outside of whatever we consider a reasonable limit, which we've still haven't determined on how we get there, then you're going into big business.

MORRIS: Right and this is prospective. We're not talking about what's there now. We're talking about prospective.

STANTON: I'm understanding this right, am I not? I mean, we're still talking about some uses of rural residential land that will require a conditional use permit. Isn't that correct, or are we suddenly going to include those that currently do require a CUP? I'm thinking of a dog kennel, for example, has to go through a CUP process.

EULER: The way the ordinance is currently crafted, there wouldn't be a conditional use option available – or I should say, a conditional use process would only be available the way this home business sort of triage is laid out for businesses that were established before January 1, 1995 – the long-timers – if they wanted to exceed whatever size they were at that date or at the effective date of the ordinance, whichever you would choose, their options in here. If they wanted to get bigger to expand so they would be in a sense grandfathered, but if they wanted to get bigger the CUP process would be available. We don't have a CUP in here tied to the post-1995 business.

MORRIS: Well, you wouldn't because you'd put it in the allowed uses for the zoning. It wouldn't go in home occupation.

LOWRY: The current graph contains an exemption for any specific activity otherwise regulated under 42.260.

EULER: That's the special use section though; that's not zoning districts.

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LOWRY: No, but I think that will include the dog kennel kind of things. One of the things I think that we would ask is that you give us instruction to spend a little bit of time with this exemption section, making sure that we're not double regulating.

STANTON: Yeah.

MORRIS: Sure. But again, Gordy, we're only talking prospectively. From here on out into the future of whenever, what do you do? What we're talking about is that in the future you would amend the allowed uses in the zones to allow by conditional use permit storage of heavy equipment according to the matrix. I mean if you are at this level and below, you would be a home occupation permit, you could hit those standards, but if it's above, it becomes a conditional use. So then this home occupation ordinance would simply say if you're storing it under these circumstances, it's permitted as a home occupation, but if you exceed that, you have to go to Title 40 – Title 40, whatever the zoning numbers are. I can't remember them anymore.

EULER: To get to a conditional use process?

MORRIS: To exceed that.

EULER: Correct.

MORRIS: Right. And since a dog kennel is already listed on those tables of allowed uses in the zoning districts, it would obviously be exempted.

EULER: A simple option would be to list home business, which we're now referring to; call it a home business. Show it as P or Review and Approval, which is the way it's listed now, and then beyond that heavy equipment would be listed as a separate allowed use, conditionally. It's certainly an option.

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MORRIS: Okay. So that's sort of a tentative place to be on heavy equipment storage.

Now what about auto repair? Okay, I'll start. I think you allow auto repair outside of urban growth boundaries and outside of rural centers and in rural residential, only as sort of a start up business. So you would limit the size of auto repair that is considered a home occupation, and I don't know what that is, but I would assume you've got one place to work, which is your garage, and you fix your neighbors' cars and find out you're really good at it.

LOWRY: Another way to get to that would be to talk about onsite employees – the number of onsite employees that you can have, which...and particularly if you define onsite employees to not include an employee who simply was onsite for purposes of picking up or bringing back a piece of heavy equipment, but if somebody is working full-time onsite then if you put a limitation, that would get, I would think, at the size of the business.

PRIDEMORE: I think you're getting to that with the matrix that we have under the draft ordinance, my only thing...and perhaps if we do put in a similar thing that under conditional use you could go further so long as the conditional use process for these had strength and language about impacts on neighbors and impacts...that you would have to have some finding that this is economically appropriate -- I mean that it's fair and the equity issue of business competition...that this would have to meet some additional hurdle to qualify for conditional use than what we typically do with conditional use. There would have to be room to deny it should it be – well, look at Alpine Auto Body going out there putting in for a conditional use permit to put in their whole thing with signs and lighting, and all of those things that would be a much larger commercial intensity use in the rural area. There if there's something that keeps it as a rural business rather than –

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MORRIS: Well, what if you – I can't remember what we allow in rural centers, but it seems to me that we have rural centers sort of sprinkled throughout the county and that allowing auto repair outright in rural centers might be a better approach.

PRIDEMORE: Do we not do that now?

STANTON: I think we already do.

LOWRY: Yes.

PRIDEMORE: You do allow it?

LOWRY: Well, I'm not sure rural commercial... what the –

PRIDEMORE: We should, if we don't.

MORRIS: Well, if Gordy could check on that because that allows – because that issue of having somebody close to you is really important, I think. I mean, I go to a place that is really close to me and I think we ought to have opportunities to have those –

PRIDEMORE: That's specifically what rural centers are designed for.

MORRIS: That's what they're for.

STANTON: Exactly, but your example of the auto body shop with the big sign and all the lights and everything, that clearly in my mind is not secondary to the purpose of the land, which is as a residence.

MORRIS: Right.

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LOWRY: It's interesting that what Gordy has found is that auto body repair would be a conditional use in rural centers, but not allowed in rural commercial outside of rural centers.

MORRIS: Where do we have rural commercial? I still don't know where we have rural commercial outside of rural centers. I don't think we have any.

STANTON: We have some grandfathered—

LOWRY: No, we do for pre-existing commercial.

MORRIS: Well, we might want to think about creating some more of that somewhere. I don't know where it is, but we might want to think about creating some more of that if we believe that auto repair is a legitimate business to have outside of urban growth boundaries. I guess for my part I do, but it's where do you put it and under what circumstances. I think that you can allow it as a start-up business as a home occupation, but I don't think you can allow it outright to the size and extent of Mr. Homola's.

PRIDEMORE: I wouldn't agree with putting more rural commercial out. I think this home occupation permit, assuming we do this right and it isn't a conditional use, you do get to that smaller scale, but once you get to a certain level then it should be in rural centers. I would prefer that we keep that distinction for rural centers.

MORRIS: That's okay. We're at a good place in the comprehensive plan too for us to take a look at how much available buildable land there is for rural center commercial lands that allows auto repair, and see what we've got available there. Okay, so we've got a pretty good tentative agreement on equipment storage and on auto repair, which seem to be the two driving ones. We've had a lot of others that have come up along the way. The ones that stood out for me were the painting contractor; the lady who teaches the piano lessons, who was too shy to testify, but she did send us an email, and it seems to

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me that you could handle that as a home occupational...as an allowed education...I don't know how you'd do it, but I keep going back to things that are allowed and not allowed under zoning codes rather than just a home occupation permit, but I'd like all the kids who want to take lessons to take lessons. So I think if you're teaching piano lessons and you don't have over ten people driving into your house a day to take piano lessons, they ought to take piano lessons as close as they can take them. So music lessons, student tutoring, there are people who –

PRIDEMORE: Aren't those...I mean, even under this though, the piano teacher is taken care of...

MORRIS: No, she can't have the trips per day. She's got too many trips per day.

STANTON: Where?

MORRIS: She had six students per day...

STANTON: Right, I know, but I thought...that came out of the matrix...

PRIDEMORE: She's on a less than 5-acre?

MORRIS: Oh, yeah.

PRIDEMORE: So she got six trips under the matrix.

MORRIS: I don't have her email with me so I don't remember her numbers exactly.

STANTON: Where does it refer to the trips in the current...?

PRIDEMORE: Bottom, last item in the matrix. Page 22 is what I'm looking at.

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STANTON: Twenty-two? We better all get on the same proposed ordinance. That's the current?

PRIDEMORE: Page 22 of...is that the staff report I'm looking at?

STANTON: That's today's. So look at Attachment 1, which is the one that we were having the hearing on. That doesn't even address trips – page 13.

MORRIS: Did you lose trips on purpose, Gordy?

I have a lunch meeting I need to go tell them I'm going to be late for. Excuse me, I'll be right back.

EULER: Looks like trips dropped off the bottom of that attachment. The matrix only applies to rural major. The number of trips is limited under urban and rural minor and urban major.

STANTON: Point to those, would you?

EULER: If you look on page 9 of the staff report, the top line says 'Home Businesses that Meet Standards' in Section D, number A-3 and number B-3...same situation, top of page 10.

PRIDEMORE: I have absolutely no idea what you guys are looking at.

STANTON: That's where you got to the trips per day.

EULER: Right, but we had the number of trips on the bottom of the matrix and it should be there under Attachment 1.

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STANTON: Attachment 1 was right behind the staff recommendation. In your notebook it's pages 6 to 13.

PRIDEMORE: Isn't this what's summarized on 22?

EULER: That's a different version (inaudible).

PRIDEMORE: Is there a nice matrix for what you've got in the text?

EULER: If you look on the matrix for page 22, those numbers should be on –

STANTON: Page 13.

EULER: – the matrix on page 13.

STANTON: But it doesn't have trips, so you haven't summarized –

PRIDEMORE: 13 does not have trips; 22 does. What's the distinction between...?

STANTON: 22 is the current ordinance, what's in place right now? Or is that –no, no, task force recommendation, 22?

EULER: I believe Attachment 2 is the current ordinance.

STANTON: I think you're looking at the task force recommendation on 22.

EULER: Attachment 2 – it starts on page 14 – is the current ordinance.

STANTON: But what we were taking testimony on Monday night was Attachment 1?

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EULER: Correct.

PRIDEMORE: Right. So that's page 13.

EULER: The matrix. Correct.

PRIDEMORE: And on that matrix there is no number of employees –

EULER: It should be there.

PRIDEMORE: – excuse me, number of trips? It should have it on there.

EULER: Yes.

PRIDEMORE: So it's just a typo that it's not there.

EULER: The matrix on page 13 is identical to the one that's on page 22. Nothing has changed in other words. For lack of a better thing to put in here as matrix, we just put in what the task force had recommended as a starting point for your discussion.

STANTON: Well, let's go ahead and take care of this while the Chair is gone. [Laughs]

PRIDEMORE: I think the only question is do you want to take the red pill or the blue pill?

STANTON: Yeah, I know it. [Laughs] Well, I don't know about you, but the easiest way for me would be to go through the ordinance as it was heard Monday night and make comments page by page. Are you okay with that as an approach?

PRIDEMORE: Sure.

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STANTON: I've already said I agree with the purpose. Commissioner Morris, we're thinking it might be easiest right now to just take the proposed ordinance and go through it page by page.

PRIDEMORE: We're talking Attachment 1, beginning on page 6.

MORRIS: Uh-huh.

STANTON: On 2-A, Gordy, it talks about 'lawfully established home occupations' – these are the ones that would be exempt from the provisions of this section – "...lawfully established home occupations established prior to..." and the question is the date of the ordinance, is that what we want to put in? That's fine with me. How do you define established? Is it that they have a permit, they've been through the process, they're legal today?

EULER: That's correct.

LOWRY: This is different than the amnesty provision that occurs later.

STANTON: Yes, okay.

EULER: This says you have a permit. If you are meeting those conditions, you're exempt from these standards.

STANTON: Okay.

PRIDEMORE: Permit being a?

EULER: Home occupation permit, per the current code.

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PRIDEMORE: That doesn't grandfather very many people then.

LOWRY: Most of what would be permitted under the existing ordinance would be either exempt or minor under this ordinance, so it's –

PRIDEMORE: It's not much of a grandfather and that's what – I guess my thinking about it was more permissive.

LOWRY: Yes, and there is a grandfather provision later on in the ordinance.

MORRIS: Further in. This is just for what's exempt.

LOWRY: This just says that if you have an existing permit you don't have to do anything.

MORRIS: You're exempt.

STANTON: Which is recognizing people who went to the trouble to get a permit and go through the process, and says, 'okay, you did that,' and now we're saying that you're exempt from this whole thing. Okay.

PRIDEMORE: So Ms. Matson would not be grandfathered, but could qualify with amnesty, which means she would have to comply with all of the regulations at some point in the future.

STANTON: Yes.

PRIDEMORE: I was actually going to be more permissive than that.

MORRIS: Well, we aren't there yet.

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STANTON: We haven't gotten to that.

MORRIS: There's a different place for that.

STANTON: So I'm okay with page 1.

LOWRY: Again, I think staff would like to do a little work on B-2 to make sure that it's clear in the ordinance that if you're an otherwise regulated use, you're not covered by this ordinance.

MORRIS: Yeah. And I'm okay with the definitions sections.

STANTON: So am I. Seven's okay. At the top of page 8, number 5, 'Prohibitive uses include onsite retail, other than incidental,' that's okay; 'wholesale,' that's okay, and 'manufacturing businesses'...manufacturing businesses reminds me of a small business that I've done business with in Oregon that manufactures twig furniture. Are we saying that that kind of manufacturing is not okay as a home business?

MORRIS: The same was true about the woman who testified about the art.

PRIDEMORE: Ms. Edwards.

MORRIS: Uh-hmm.

STANTON: About the what?

MORRIS: She did art. She had a barn, and she was...

STANTON: Oh, yeah, right. The lamps...yeah...that's true.

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PRIDEMORE: Why is the manufacturing business distinct? I mean, why...is it noise?

STANTON: Not necessarily.

MORRIS: There's a man in Yacolt, who makes guitars. What do we care?

STANTON: As long as all of the other conditions are met.

PRIDEMORE: What's the issue, Gordy? Why is manufacturing excluded here?

EULER: I'm looking to see what the current code says because I know we borrowed some language for this draft from the current code.

LOWRY: I know that some of the discussion occurred that the way this ordinance is set forth subject to the size limitation about any use would qualify as a home occupation.

One of the concerns was warehousing, but you want to allow the Amway warehousing to occur. You don't want somebody to be able to build cars from the ground up, but you do what them to build –

PRIDEMORE: What's the distinction? With wholesaling, I know we've talked a lot about this, but the big issue to me with – excuse me, not wholesaling, with warehousing – the big issue with warehousing would be the presumption that you would have [TAPE ENDS]...Just as these are listed here, I would strike 'wholesale, manufacturing businesses, and warehousing.' I would distinguish distribution from warehousing.

MORRIS: Distribution is going to cause more trips.

PRIDEMORE: Yeah, well, it almost sounds more like retail sales anyway, so I would leave in "prohibited uses include onsite retail other than incidental, adult entertainment enterprises, and businesses larger than..." Isn't that already covered under...?

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STANTON: Distribution includes your Amway products...could be, as you warehouse and distribute from there to dealers.

PRIDEMORE: My only point is what are we trying regulate? It's not the type of use. I mean, if it's trips, we regulate the trips. We don't regulate what's generating them. So if you want to do Amway distribution, as long as you don't have cars coming in and out of it all day long, then go ahead.

STANTON: Because, again, we're getting back to the impacts that we want to regulate.

LOWRY: So get rid of – don't include the 400 or 900 square feet here, but instead rely on the –

PRIDEMORE: Oh, it's – that 400/900 square feet is specifically talking about the warehousing and distribution side?

LOWRY: Yes.

PRIDEMORE: Well, that might work then.

MORRIS: If you go to 900 it's okay. 900 is a 10x10 garage – it's a little smaller than a 10x10 garage – and if you're doing an Amway distribution, you need a 10x10 garage. Actually, you could use a bigger one.

EULER: That's 30x30 actually.

MORRIS: Oh, yeah, thank you. [Laughs]

EULER: Sorry.

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MORRIS: You're helpful.

[Laughter]

STANTON: I don't know what the feet would be on this, I really don't, because I'm thinking of a lady who had two businesses. One of them was writing – I was thinking I needed it – Grammar Curriculum – and she stores the books, has them printed, published...

MORRIS: That's the piano teacher, I think.

STANTON: Oh, okay. She had two businesses. You're right. So her question was – and that was in the email that you mentioned that she sent – was “who are you to be telling me how I use my home.” What's the right number – 400, 900, 1,000, 50% of your home?

EULER: We responded to that, if you saw the response that was generated, that it's nobody's business if you want to have a library in your own house for your own use. That's fine.

STANTON: So we're using the 25% standard that's here just as kind of a guideline? I mean, we're not expecting to go in and knock on somebody's door and take out a tape measure, because that's sort of what it makes me think about.

EULER: This is a holdover from the current code – 25% of habitable space...

STANTON: So it's just kind of a rule of thumb that's just kind of there.

EULER: It was trying to get at your notion of the business being secondary to the residence.

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STANTON: That's what I thought.

MORRIS: Then what we would say is the only thing that is prohibited – the only two things that are prohibited are adult entertainment and onsite retail, other than incidental. Is that right?

LOWRY: Unless you were going to retain –

PRIDEMORE: I guess I would put in to retain the warehousing and distribution larger than 400, which is 20x20, which is fairly large.

MORRIS: Well, again, why do you care? Why do you care, if it isn't generating trips? Why do you care?

EULER: I think the notion was that that sort of business does generate trips. This is a check on that, if you will.

MORRIS: But maybe it doesn't. Maybe she delivers it, or he delivers it.

STANTON: [Laughs] I don't know how you get to the square feet when you're thinking about...you could have a whole trips if it was little bitty PEZ dispensers, or something like that, and you're giving them out twelve at a time as opposed to something very large in volume.

[Laughter]

MORRIS: I know what PEZ are. I know what they are.

STANTON: I was just trying to think of something little.

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MORRIS: We're old enough to remember PEZ. [Laughs] So is there a really good reason for us not to just only prohibit onsite retail other than incidental and adult entertainment?

PRIDEMORE: I'll by it.

STANTON: That's fine by me because I have a hard time coming up with the square feet that makes sense. The next one where you had some questions as to...we had to pick one – home businesses on parcels with an accessory dwelling unit or...

EULER: If you want to include this language at all.

STANTON: I know. My note next to that says "why does this matter?"

EULER: Current code prohibits accessory dwelling units in rural areas and so –

STANTON: Unless it's a hardship case.

EULER: – Right. So essentially you could have on a piece of property a residence and accessory dwelling unit, and a home business.

MORRIS: Why do we care if it's 20 acres? Do we care?

EULER: Somebody did at one point when they drafted it. This is in the current code.

LOWRY: Actually, I think the accessory dwelling structures only apply within the urban area.

MORRIS: This applies to everything.

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LOWRY: But, I think you can only have an accessory dwelling structure in the urban area, and so...

EULER: That's correct. You can't have one in the rural area.

STANTON: Unless it's a hardship.

MORRIS: You can with hardships.

LOWRY: Hardship is different than an accessory, I think, under the definitions in the code. Hardship has to be temporary; accessory can be permanent. I assume the rationale behind it was if you've got an accessory residential structure in the urban area, you're starting to over-burden the lot by also having a home business on that same lot. Whether that makes sense or not...

STANTON: But if it was contained in one room of the house, what does it matter? We're just saying that you can't have any home business if you have an accessory dwelling.

LOWRY: And given the limitations on home businesses in the urban area under this ordinance, then this doesn't make sense at all.

STANTON: I'd strike 6.

MORRIS: You may want to prohibit them from having an accessory structure, but they couldn't get a building permit for an accessory structure anyway unless they could meet all of the standards.

EULER: We're talking about an accessory dwelling unit, not an accessory structure. They're different.

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MORRIS: But what you're saying is that if you've got an accessory dwelling unit, you can't have a home business at all. In other words, you couldn't teach piano lessons. But under what we've done – the issue is how many buildings there are on the parcel, not what you do inside of them.

EULER: Correct. So it's a land use issue. You're correct.

PRIDEMORE: (inaudible) ...you could have an accessory dwelling unit that's a mother-in-law apartment.

MORRIS: Yes, I understand that, but what I'm saying here is that the goal of this line was to limit the number of structures. You can't have an accessory structure on parcels that also have an accessory dwelling unit.

EULER: Yes, and right now there's no language to that effect in here.

PRIDEMORE: Let's just scratch it.

MORRIS: Right. So are there other areas of the code, though, that would regulate that?

LOWRY: Setbacks...

MORRIS: Mr. Pridemore, do you need to go to lunch? [Laughs] You're antsy and you're looking at the clock.

PRIDEMORE: There's actually the challenge with coffee.

[Laughter]

MORRIS: Go. I did.

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STANTON: So we're taking 6 out – we agree?

MORRIS: Yes, that's fine.

STANTON: The next one I had made notes on, on that page, is E-3 where it says, "Two or more exempt home businesses on the same parcel shall require a Type I or Type II permit based on the combined features of each features." My questions is –

MORRIS: Wait. Did we do 7?

STANTON: No, I didn't have any problem with those. I was just picking up the ones...sorry. Did you have a question on it?

MORRIS: Yes, because I think that's the point where we say heavy equipment and material storage is allowed according to the matrix and if it exceeds the matrix, it requires the conditional use permit, and then we deal with the matrix issue. So I think we do need to have altered language here.

STANTON: This is a general standard and all it's saying is "heavy equipment and material storage is only allowed in activity areas or in accessory structures." In other words, you can't park it in the house –

LOWRY: You could add, "...consistent with the appendix (inaudible)..."

STANTON: Oh, okay. Just to clarify it?

MORRIS: Yes, just clarifying.

STANTON: "...consistent with..." Okay.

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EULER: Before we move on, we want to add a number 8, which would now be number 7. In the current code it says...what's that footnote 3...that – there's a footnote where it says home businesses in...and it also talks about bed and breakfast's [tape cuts out briefly] There's a footnote that said home businesses are only allowed on resource lands when they do not diminish the primary use of the land for long term commercial production of forest products and other natural resources, which was back to the conversation we had earlier.

MORRIS: Don't do anymore with that.

EULER: It's there now, so we're proposing to take the footnote out of the Use Table and we don't have to put in here either, but...

LOWRY: That shouldn't be in the code for a Type I or Type II permit. For the conditional use permit that language is fine, but it's way too broad for a non-discretionary Type I or Type II permit.

EULER: Fair enough.

STANTON: So you're supporting taking it out? It just doesn't apply here.

MORRIS: Well, we're talking about whether or not we're going to add a number 7, and we're not. Right?

EULER: The notion was to take the footnote out of the Use Table where it currently exists.

LOWRY: I think you should still instruct staff in the adoption ordinance to get rid of that language.

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MORRIS: Well, but for right now we're right here and we're not going to add a number 7.

LOWRY: Right, but that language appears in the Use Table...

MORRIS: Yes, we know. Okay. We'll deal with that when we get to the Use Table, how's that?

EULER: Okay. Do you further want us to get rid of the footnote in general?

MORRIS: Yes, but I just thought we were going to go by it page by page, but I guess I would say yes, get rid of it on that page.

EULER: Okay. We'll take care of this –

MORRIS: You're skipping forward on us.

STANTON: Yeah, but what note are you talking about, Gordy?

LOWRY: This is not in this document. Gordy discovered it in the actual Use Tables by Zoning District, and there's that footnote, which shouldn't be in the Use Tables. It either should not exist at all or it should find its way to this ordinance.

MORRIS: Okay, instead of confusing us with that at this point in time, could you put that on a parking lot sheet and let us get on through this one rough draft and then you can come back with another draft ordinance with a list of the parking lot issues. Okay, thanks. Okay, now, we're on 8 on Home Businesses Exempt.

STANTON: My first issue had to do with number 3, under E.

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MORRIS: 1-A-E. E-1-A-3? Or just E-3?

STANTON: No, no, I'm sorry, E-3. The last item under E – "Two or more exempt home businesses on the same parcel shall require a Type I or Type II permit based on the combined features of each business." My question was, what if combined these two businesses don't equal the impacts of one exempt?

LOWRY: They're classed based upon total impact. This just says you class them based upon combined impact, not that you move up a class.

STANTON: You're saying, though, that if you have two exempt home businesses – you have two businesses that operate out of the same home office, one is accounting and one is tax preparation – two different businesses – you're saying that you can't just qualify. You have to go through a Type I or Type II [TAPE BRIEFLY CUTS OUT]...

LOWRY: This says that if, as a result of having two businesses that are individually exempt, you exceed the standards for exempt businesses, then you are subject to a Type I or Type II.

STANTON: It doesn't say "will exceed." It just says if you have two or more exempt home businesses on the same parcel, then you are automatically kicked into Type I or Type II.

LOWRY: I see what you're saying.

STANTON: I would say if you have two that combined exceed an exempt... –

EULER: Yeah, it says based on the combined features of each business, so you add those two together and if they exceed, you're kicked in.

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LOWRY: What about if we put –

EULER: It's a clause at the end of the sentence, "based on the combined features..."

LOWRY: – what about if we put that "after two or more exempt businesses on the same parcel shall be exempt or shall require a Type I or II permit based upon the combined features."

MORRIS: That would be okay because you are exempt in the urban area if you have two employees. So you could have a business teaching piano lessons and accounting, and you would have two employees who came for each of those, which would kick you to four.

LOWRY: My understanding of Commissioner Stanton's concern was that as currently written, this could be read to mean that you are automatically bumped to a Type –

EULER: Even if both businesses were exempt, you'd have to get a Type I. I don't believe that was the intent of this was.

STANTON: I don't believe that's what was intended either –

EULER: No.

MORRIS: No.

STANTON: "...shall require a Type I or Type II permit if the combined features exceed the exempt standards."

MORRIS: Right.

STANTON: There you go. "Exceed."

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EULER: That's better.

PRIDEMORE: I think we should take all the time we need.

STANTON: [Laughs] You feel good now, huh. So are we okay with page 8?

MORRIS: Yeah, I'm fine with these.

STANTON: I like to feel like we're making progress.

MORRIS: Oh, wait. I did have a question about number 2. I'm sorry, page 8, E-2. There is no minimum lot size for exempt home businesses. Somehow or other we've got a circumstance, if I were to put all the wrong things together, where you could have a large home business running out of an apartment. Is that problematic for anybody besides me?

STANTON: So you could get a major home business operating out of an apartment?

MORRIS: Well, the standards for a major home business are that you only have to hit one of the standards and I think you probably ought to have to hit two of the standards to qualify as a major, but I can't remember how I got to that. It was the issue of no minimum lot size for a home business and it would seem to me that if you've got an exempt home business...well, that's what they are though. Oh, it's okay. All right. No, it's fine.

EULER: The point was, we said that if you're small enough in terms of these standards –

MORRIS: Who cares?

EULER: – parcel size isn't an issue.

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MORRIS: We're on 9?

STANTON: Yes. Well, the only issue on one on that page, and it shows up on both urban and rural, is the question about the number of square feet that you can use in an accessory structure. There were a number of points made about that issue. I'm not sure we have to specify square feet.

MORRIS: On either one?

STANTON: Well...

EULER: In essence, the only difference between an urban minor and a rural minor is the size of the accessory structure. It's two resident employees, it's six trips per day, it's no outside storage. The other difference is one home business-related vehicle in urban, two in rural. So it's really the size of the accessory structure, which gets back to parcel size in essence. Bigger parcel, rural areas, bigger building.

STANTON: I think the point is if you can have a larger size structure, why would you limit the number of square feet that you can use if, indeed, what that would mean is that you wind up putting some of the equipment, or whatever, outside because you can't put it inside.

EULER: Again, the standards need to be looked at altogether as how the task force crafted them. So a limit on the amount of equipment, a limit on size of building – those two should fit together. If you limit one and not the other, you may create a problem, as you pointed out. As crafted, there are limits on both. Matrix limits and accessory structure size.

MORRIS: But they're not tied together.

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EULER: No, no. I'm not suggesting they are.

MORRIS: If you're in an urban area and you've got a 20,000 square foot lot and you've got a three-car garage on it, why couldn't you use the whole three-car garage?

LOWRY: The matrix only applies to rural.

MORRIS: I know, but we're not looking at the matrix, we're looking at the words on page 9 for the standards for a minor that say, "...in the use of 400 square feet of an accessory structure." So you've got a three-car garage that you can only use 400 square feet of it?

EULER: Yes, that's correct.

STANTON: The accessory structure, though, is separate. I mean, you're not counting the three-car garage in accessory structure.

MORRIS: But it could be a detached garage. Maybe you used it to store your boat. I mean, I was just out to Banbury Estates for a barbeque awhile back and those folks have all sorts of out buildings for storage of things.

EULER: We do make a distinction in the square footage between detached and attached garages. In terms of the 25% proposed limitation, we include attached garages as part of the habitable part of the space, but not detached garages. They're considered accessory structures.

MORRIS: They're an accessory structure.

STANTON: So you could use up to 25% of the habitable structure and 400 feet of an accessory structure –

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EULER: The way this is written, that's correct.

STANTON: – and still be classified as a minor?

EULER: Urban, that's correct.

STANTON: Urban business. Again, I don't know what the right number is. Seems reasonable.

MORRIS: Well, you were the one who didn't like them. [Laughs] Well, I just think they need to be different in size.

EULER: Currently, for a Type I you're not allowed an accessory structure at all. So the Type I standard, if it makes any difference to you, this 400 feet is actually the current Type II standard.

STANTON: That was the issue of the man who came to see us who had a detached garage – and this was somewhere along in the process, if I remember right –

EULER: Mr. Vinther, I think, was the one who was caught in this. He was going to have to get a Type II, and he was making furniture in his garage. No employees, no equipment, no nothing. Yes.

STANTON: Okay.

MORRIS: Okay, so you want to leave that?

STANTON: I guess. My note next to it was, "are we going to go checking and measuring?" and already you're going no, we're not going to go measure, and it was the

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man from Camas with the emergency equipment repair business who was saying that he stores a lot of stuff – big, bulky stuff.

EULER: Part of the issue is that people look at this and say, “you’re telling me that I can only build a 400 square foot building,” and that’s not what we’re saying. You can have as large a building as the lot will allow. You can only use 400 square feet of it. Is that a ridiculous thing to write in code?

MORRIS: Well, I guess it seems to me as long as you can go out there and build a building, why can’t you use it? Does that mean I have to put a red line down the middle of the floor and I have to say this side is for me to store my business stuff and that side is for me to store my luggage?

EULER: The task force wrestled with the issue.

STANTON: And then wait for Code Enforcement to come out.

MORRIS: Exactly, because it just gives a reason for someone to complain if they see the...

EULER: Agreed.

MORRIS: So take it out?

STANTON: I don’t know. Commissioner [Pridemore], we’re talking about how many square feet in an accessory structure in both urban and rural, I think, if the issue really is that legally you can build another structure of a certain size with all the appropriate setbacks and everything else that you have to do, and then you limit the amount of square feet to less than that whole building. Is that reasonable?

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LOWRY: Remember, here, that this is a limitation that simply is a qualifier for a minor home business so if you're over that amount, you could become a major.

STANTON: You could become a major because that's up to 900.

MORRIS: But what difference does it make? If the issue is trips and the issue is impact, what difference does it make?

LOWRY: I suppose only that size or bulk is some measure of what the impacts are likely to be.

STANTON: Of intensity and that kind of thing, but –

MORRIS: But, again, go back to yours, Commissioner Stanton, think of all the traffic you could cause in 400 square feet. [Laughs]

STANTON: And, as opposed to the man with the twig furniture who, granted, was in Oregon, but who makes really large pieces of furniture that will take up a lot of square feet.

MORRIS: I don't think we care. Let's take out the minimums, I mean, the maximum use of the square footage.

STANTON: Do you see any problem with that, Commissioner.

PRIDEMORE: Under Exempt, are you talking about eliminating it there too?

MORRIS: No, we're over on –

PRIDEMORE: Right, but there is still one under Exempt.

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MORRIS: No, because those are the ones that are exempt. These are the ones that have to get a minor and a major.

STANTON: Well, no, it does. Under Exempt in rural areas it's use of up to 400 square feet of an accessory structure. So that was the first threshold, you're right. You can be exempt if it's less.

PRIDEMORE: So would you keep that one?

MORRIS: Yeah, it's exempt because if you're going to use more than that, then you have to get a minor. Or a major, depending on the rest of whatever you're getting. You have to get something.

PRIDEMORE: But under minor, then, you would...

MORRIS: There have to be some thresholds for when you lose your exemption.

LOWRY: I think your Code Enforcement staff is getting nervous because you're taking...[laughs]

MORRIS: I would sure like to hear some of that because I honestly don't know why you would incorporate this in here, but I'd sure like to know.

LOWRY: I think from their standpoint this is a lot more measurable than number of customers or number of trips.

MORRIS: Who's going to measure it?

LOWRY: Well, the person who's getting the permit would have to indicate that area, I would assume, that they're going to occupy in a larger building – accessory building.

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MORRIS: Could we do it this way, could we just take it out and if somebody's got a good reason why it ought to go back in, they can come and tell us.

STANTON: Tell us why we should leave it in – somebody in the front row, please.

DONNA GODDARD: For an example, Mr. Homola's 3,600 square foot building [TAPE BRIEFLY CUTS OUT]...

MORRIS: But we've already made some decisions about auto repair. So if that building is there and somebody is going to make and store furniture or guitars in it, why do you care how much storage space they take?

GODDARD: I think, like Mr. Lowry said, a lot of our experience has been that the size of the building does have an impact on the use and to the surrounding neighborhood.

MORRIS: But that's the size of the building, not the size of the floor space inside of it. That's like telling me I would have to have so much of my square footage of my house in a bedroom or in a kitchen because a building. So what you begin to do is you're dictating the amount of space you can use within a building.

GODDARD: It's a tough issue. In my experience, the higher intensity uses that we get complaints about are regulated to the larger size accessory buildings.

STANTON: There's other restrictions that we're putting on them in terms of impacts and you don't think those would be the limiting factors opposed to the square footage. Argue with me, really, because I don't know.

GODDARD: I think that the size of the building, like Mr. Lowry said, is a lot easier to regulate than us standing out there for 8 hours trying to count the number of cars that go by, in an out of the property.

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STANTON: That's true.

MORRIS: Tell me how you do that, because you just said the size of the building. The size of the building you can measure, but to see how it's used you have to get inside.

GODDARD: Sometimes we do have to get inside, sometimes we do get inside, sometimes it's pretty obvious when you have a three-bay building and all the bays open, you can see what they're doing inside whether it's auto repair or furniture making. We can see inside. That's part of what we do in our investigation.

MORRIS: Okay, but if we could get this out of auto repair because we've talked about auto repair and we're talking about prospectively. Take the same building and move the guitar manufacturer into it, from Yacolt, he makes guitars, he stores them and he delivers them. He shouldn't be able to do it there?

GODDARD: That's a tough choice, I mean, chances are that we're not going to hear about the guitar maker because his impacts are very low and I know that.

MORRIS: It's the impacts and I guess that I would just tell you that my experience from people who have complained to me about home occupations – which are almost always in the urban area – it has to do with those impacts with the number of trips. Remember the recycler that we had?

STANTON: Oh, yeah.

MORRIS: That had to do with the number of trips, not the fact that he was using his entire garage, which he was allowed to do under those circumstances.

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GODDARD: I guess the other issue, too, would be going back to what is the primary use of the property. How big of a building – is this going to encourage larger accessory buildings on these properties that the business may not be secondary?

MORRIS: Then wouldn't you just limit the size of the structure?

PRIDEMORE: Why limit it if they're just storing luggage?

MORRIS: Well, because you've got dimensional issues that you have to maintain, certainly in the urban area, and your lot size is going to confine you. Frankly, my husband thinks I'm accumulating enough luggage that I ought to have a huge accessory storage structure. Either that or rent a mini storage. [Laughs]

PRIDEMORE: I think the accessory structure use limitations are reasonable and they are pretty large, I mean, if you get to the major you're talking about a 30x30 building in the urban area and you're talking about...

MORRIS: Well, you may not be talking about a 30x30 building. You may be talking about a 100x50 building.

PRIDEMORE: I'm just trying to get to scale; it's a lot of space.

MORRIS: But it is the difference between the building size and the use inside. I need to ask the lady who's here, with the painting contractor shop – could you tell me a little bit about where you keep your supplies and what you use an accessory structure for, and for the record you need to come and identify yourself, since your handy.

MARY NICHOLS: My name is Mary Nichols with Nichols Painting on 239th in Battle Ground. We have – basically it's like a two-car detached garage. We use it to store pressure washers, pumps, air compressors, but I also keep my riding lawn mower and,

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like, household garage items in it. To me, it seems kind of ridiculous to say that you can only have a 400 square foot building just for this purpose when in rural environments we co-habitat with our homes. You know what I mean? We have – okay, like you go into the urban areas and you seen people with three-car garages are you going to limit them on what they can store?

MORRIS: Okay, just a second. What are you zoned? I don't remember.

NICHOLS: I'm a 5-acre parcel. I'm not real familiar with... –

MORRIS: But you don't know what your zoned? Pat, do you have any idea about what she'd be zoned, or Mary, on 269th.

NICHOLS: 239th, two miles north of Dollars Corner.

MORRIS: Two miles straight north of Dollars Corner.

NICHOLS: Right.

MORRIS: East or west of 10th?

NICHOLS: West.

PRIDEMORE: The size of your two-car garage is how large?

NICHOLS: My husband gave me the dimensions...about 400 square feet.

PRIDEMORE: And you're not using all of that for the business purposes?

NICHOLS: Not at this time. We have personal things in there also.

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PRIDEMORE: This particular restriction, as it's phrased here now, just for a minor you are likely to qualify – actually, under minor you've got up to 1,000 square feet of an accessory structure.

NICHOLS: No, that one actually wouldn't have much to do with us.

PRIDEMORE: So you'd qualify under minor. It's very possible, at least under these criteria, that you would qualify as an exempt. Now, you've got other issues –

NICHOLS: Except for the employees.

MORRIS: No, she's got employees.

PRIDEMORE: – Exactly, that's what I'm saying. Just under these criteria, you would comply for an exempt.

NICHOLS: Right.

PRIDEMORE: So that's not unreasonable.

STANTON: It's not unreasonable. That's the point.

NICHOLS: So what about the furniture guy? Okay, instead of making all of these trips because he doesn't have the storage to do it, which is going to create higher impacts?

MORRIS: Well, there are two issues here. One of them is the size of the building. Okay, this is the logic...thank you. We're not limiting the size of the building. We limit the size of the use of the building. So that's the discussion. Do we want to limit the use? If she had a larger building, she would be able to use 1,000 square feet of it under this for a minor. I don't think we're going to drive anybody out of business by this –

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STANTON: I don't either.

MORRIS: – I guess the question Commissioner Stanton raised was a logical one about how do you measure that? How do you know? How do you get in? Because so far the only thing we've heard about it is that the tie was somehow made in the task force's mind between the size of the building and the number of pieces of equipment that you could store there and that certainly would be true if you were building the building, but it might not be true if it were an existing building, which is mostly what we hear about people using.

STANTON: Thank you for the discussion. I'm okay leaving it as it is. Yes, Linda?

LINDA MOORHEAD: Linda Moorhead, Code Enforcement. One other consideration that we have to think about is mixed used. If you have a 1,000 square foot building and you're going to combine your business use with your personal use, there are fire marshal considerations regarding what can be mixed with what, if you're using combustibles or anything else, as well as the residential aesthetics that we hear complaints...in the residential zones.

MORRIS: But we're talking about inside a building –

MOORHEAD: Right.

MORRIS: – not outside of a building and aesthetics are essentially an outside issue. So the fire marshal issue might be a legitimate one.

MOORHEAD: As well as building code when there's a mixed use in one building.

PRIDEMORE: What are you suggesting here, Linda?

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MOORHEAD: If we limited it to 400 square feet and they stay within that 400 square feet and there are no complaints that's something different than if we get complaints that there's a neighbor who's using a 1,000 square feet, we go out there, there would be building code requirements, as well as fire code requirements, that have to be met.

PRIDEMORE: So what does that mean? What would your recommendation be on these specific standards? Are you saying that we don't need them, or we do?

MOORHEAD: Limit the size.

PRIDEMORE: As recommended here?

MORRIS: Isn't that when you actually get to a point? Because I'm trying to think now what if I'm storing stuff in my garage and I've got my luggage out there and I've got my storage out there, and I've got the can of gasoline for the lawn mower, and then I've got paint thinner for my business – I can't co-mingle them? I have to be orderly? Because if I co-mingle, the Fire Marshal will get me? [Laughs]

MOORHEAD: Oh, I'd hate to regulate anything like that, but if somebody were using an air compressor and they had combustibles in there and gasoline and lawn mower equipment, and they're using electrical equipment, saws and saw dust...

PRIDEMORE: Just clarify for me, the requirements that are recommended here are something that Code Enforcement is comfortable with?

MOORHEAD: Yes.

MORRIS: Okay, leave them alone. I think you were right when you started, Commissioner Stanton. I think you've let yourself be talked out of it, but okay. [Laughs]

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STANTON: No, no. I like the discussion. It's really helpful. I had played with the language, just saying "...up to half of the square footage of an accessory," but that could encourage, or would encourage, larger accessory structures than are really needed. I like the discussion; that's really helpful.

MORRIS: Well, it would encourage larger new accessory structures, but by and large we're talking, for the most part, what I've seen are existing accessory structures – not that you go out and build one.

STANTON: By and large, if you're being a good neighbor and not impacting your neighbors, nobody's going to call and say, "I think they're using 450 square feet over there," and we won't have to go and measure.

MORRIS: Okay, that brings us down to number 3 on that page, which I have some issue with, and it's about the private road and we had a lot of discussion about that. I'm wondering if there isn't a better way to approach the private road issue than by agreement by all the neighbors because I think Mr. Polos is right, I don't think you're ever going to get...that sort of leaves you subject to –

LOWRY: Actually, this doesn't require an agreement of all the neighbors. It simply kicks you to a Type II process if you don't have the agreement of all the neighbors. So there's a form to decide whether or not the home business applicant is stepping up to the plate to take care of his impacts to the private road.

MORRIS: But there really aren't any standards on that, in terms of what you would expect him to meet. So what you do is you kick to a Type II, which can be appealed to a Type III, which can be appealed to a Type – to us. It can get all the way to us on whether or not someone can have a minor home business on a private road and we don't have anything to make that judgment call on. If we were to specify instead of that – and I don't know how you would get to this, but the issue is wear and tear and whether or not – the

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good neighbor issue is whether or not you over-burden the capacities of the road without paying your fair share of it. So that's the impact issue. If there's a way to get at the impact issue without having to go to the expense of a Type II or go through the potential process where it winds up in front of us...that's really pricey for everybody.

LOWRY: The primary reason to kick it to a Type II is so the neighbors get notified, and so they can have their say in terms of what the wear and tear is going to be and whether...stepping to the plate.

MORRIS: Okay, but then what we need to do is we need to specify, I think, what they have to do. They have to have a meeting with the neighbors and they have to prove, in order to get their – they have to be able to hit a standard because there's no standard here. That's the point. We have a whole lot of standards everywhere else, but we don't have a standard that says it's okay. When do they get their Type II? They go to the Type II process and then what?

LOWRY: I agree with you. I think the issue that we need to put into this as a standard is whether their proposal adequately mitigates for their extraordinary impacts to the private road.

PRIDEMORE: I would add one thing to this and that's just the safety issue if you've got a private road, and a lot of these are kind of curvy and things like that, and if you've got a home business and you're bringing in a lot of FedEx trucks and I've got young children out there, I think safety should be an issue under this requirement.

LOWRY: Only if he doesn't have sign-off from all the neighbors.

PRIDEMORE: Well, yeah. Right now, the whole private road issue is a civil issue. It's something they have to go to court to work out for themselves. It's not a public area at all, and in listening to the testimony the other night that's what I started thinking is, you

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know, by having any kind of requirement on here we're now injecting public interest in a private road and I was not real comfortable with us going into that area.

STANTON: The only reason that we got there is that we're allowing a business use of residential property, which pushes us there.

LOWRY: And it's not simply that you're allowing business use, but you are allowing some sorts of uses, which are going to tear up private roads unless their mitigated.

PRIDEMORE: It isn't just the tear up, but also the safety issue.

LOWRY: And safety issue. Right.

STANTON: At the same time I can picture a neighbor – not mine necessary – but with three or four teenage kids who race up and down a private road and them causing more of a safety hazard than – I think it was the piano teacher, again, who wrote and said that her students are 3 to 5-year-old kids who's parents bring them in, and they are very aware of other children who might be near the road, and they drive safely.

PRIDEMORE: How do we do these now? Doesn't everybody who lives on a private road have to have an agreement in place for how they can...? –

LOWRY: No.

PRIDEMORE: They don't even do that?

LOWRY: No, if the development was approved under county standards, then they would have a private maintenance agreement. That's been required by code for some time, but if it pre-dates or if they're beyond our exempt division level, then whether they have a private maintenance agreement is going to depend upon whether that developer chose to

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have one. You also have a lot of private roads out there that have been around for so long that it would be difficult to get everyone signed up to a road maintenance agreement.

PRIDEMORE: I was kind of intrigued by that and I guess it was Mr. Polos who said that he was putting out all of the money to maintain the road and his neighbors weren't and I thought boy, I'd have a problem with that.

MORRIS: And he has no customers? He has no impact...

LOWRY: One possibility would be to limit –

PRIDEMORE: He's got to have delivery and he's got to have things so he's going to have some impact.

MORRIS: He has some, but...

LOWRY: – You could put a threshold in here so that the section didn't get triggered unless it involved use by more than a certain amount of trips per day or by heavy equipment.

STANTON: That makes a lot more sense to me than just catching everybody into this, even if it's just a little one-person operation running a business.

MORRIS: He has two trips per day according to this.

PRIDEMORE: I think this draft requirement is appropriate as long as the safety issue is added. However, if there's something in terms of the size of delivery vehicles or something like that, I could see maybe providing another exemption level, but my sense is that these issues – I think neighbors need to start working together with each other, and we don't have too many things that require that.

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STANTON: This would be a lot easier if that was the case. What do you think of the threshold idea of something that triggers a need to go out and get the approval of neighbors?

PRIDEMORE: I don't know enough about delivery vehicles and their sizes or those kinds of things so I don't know what to suggest...

MORRIS: Well, you know that under the standards that they can have up to six onsite customers per day. So you know that they can have [TAPE TURNS OVER TO SIDE B]...and six off, and then they can have two employees who come to the business so that could be eight on and eight off.

PRIDEMORE: I don't worry about the ones who are driving in cars or small trucks. It's when you get to that next level of larger delivery vehicles that are harder to maneuver.

LOWRY: The Planning Commission had some testimony on impact on a private road from an auto repair shop that used the private road as the testing strip for the vehicles.

MORRIS: Well, wait. Let's remember that we're talking, here, about at what level does a minor home occupation trigger to become a Type II review, because we're saying that the minor's are Type I's and at what point does it trigger to be a Type II. The only time it triggers to be a Type II is if it's on a private road and if you've had no agreement. So there are assumptions built into the minor about how many delivery trips – it's a minor kind of a business. You can project that there would be a maximum of, you would assume, eight trips on and off per day. So it's only for when does a minor become a Type II process.

PRIDEMORE: If you can go through and work out an agreement with your neighbors, great, that will qualify you. If you can't, then we, as the county, will step in and we will figure out what is appropriate relationship will be. That seems fair to me.

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MORRIS: Well, I'm not saying that it isn't, but it is a reason why you would have the standards because it tells you what standards you have to meet with that neighborhood agreement and if it goes to a Type II, it tells the neighbors what kind of standards they have to meet.

EULER: This has been very tricky and still in my mind I agree, I'm not completely the (inaudible) resolution of this. I can tell you, however, having sat through the task force meetings that they felt very strongly that neighbor talking to neighbor was the way they wanted to go and –

PRIDEMORE: They have that option under this.

EULER: – Right. Combine that with the cost of the fees, we hit upon this idea that if you needed a permit, which you will unless you're exempt, you should go talk to your neighbors, especially for a business that's going to have some impacts on the private road – number of trips, whatever...we heard from a number of people who said safety was a concern, dust was a concern, that speeding was a concern – all those things. When we took our field trip as the task force, it really didn't hit home to me that when we drove down a half mile private road that there was something different about that business than the one that took its access immediately to a county highway. So we came up with an idea to say to applicants that if you can work out an agreement with your neighbor and prove to us that you have an agreement for just the road – we're not talking about the land use part of the business; that's something the county permits – but you agree to work on the road, get an agreement with your neighbors, we'll process you at the lesser fee. We thought that was a reasonably good way to go. It costs less money, you get neighbors talking to each other, and hopefully you solve a problem that may be covered in CCNR's, but people have long since forgotten what those are. We also said if you're neighbors don't agree that doesn't mean that you don't get your permit; that means the county will elevate the process to the next level, which of course will cost you more, and you may have some neighbors who don't like you, and that's unfortunate, but we'll do the notice

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and you'll get your permit, if you otherwise meet the standards, but there still needs to be evidence that the road issue has been taken care of.

LOWRY: What if we triggered this section by either auto repair business or heavy equipment and just assume that the delivery trucks are not going to be a major issue.

MORRIS: Well, that's back on heavy equipment and auto repair again, which we're treating a little bit differently, and if they hit much of a level that – I don't see anything wrong with this and I think we're beating a dead horse here. The only thing is that there need to be the standards so that you know when you've met the threshold and that you're not in a circumstance where you just have your neighbors saying, "I don't care, I'll never sign. You can blacktop the whole road. I'll never sign because I don't like you." So just those standards -- that's the only thing. Okay, thanks. Okay, we're ready for majors.

STANTON: I didn't mark anything up that I needed to talk about on majors.

MORRIS: I didn't either though some of the table indicators for vehicles and heavy equipment may change.

EULER: Again, for the purposes of discussion, we included the task force matrix and if I had it to do over again I think I would have put the recommendations to the task force in parentheses and created lots of yellow on there for purposes of discussion. The comments I've gotten made it look like this is what we're going to go with and that certainly was not our intent at all. We expected there would be discussion around those limitations.

MORRIS: We're having it.

EULER: Thank you. [Laughs]

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MORRIS: Okay. Now we're at the hard part, back again, about amnesty, grandfathering – all the rest of that stuff.

STANTON: So 2 at the top of number 11?

MORRIS: Yes.

STANTON: Where we have choices?

MORRIS: Uh-hmm.

STANTON: Just for the purposes of discussion, my notes that I scribbled on here would have it read – “A home business that was established on or before January 1, 1995 and has been in continuous operation since then may continue to operate at the level of the business footprint as of...” and I'm not sure January 1st is the right number to put in there. I thought maybe “date of adoption” would be.

PRIDEMORE: I would prefer the January 1, 1995, and be comfortable with that.

STANTON: So you would just keep it with the second parentheses then – “...the business footprint as of January 1, 1995?”

PRIDMORE: Yes, ma'am, and whether that's January 1, 1995 – is says on or before. Probably doesn't matter since January 1st...certainly nobody started business on New Years Day since they couldn't have gotten any kind of official recognition.

MORRIS: I would suggest that the date of adoption is the most appropriate date simply because we have dawdled for a very very long time and I don't have any interest in going back and putting somebody out of business. So I would suggest that we continue to do that.

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PRIDEMORE: We've dawdled for a long time under code that prohibited any of these people from being in business anyway.

MORRIS: Well, I know we have and I know that there are blatant violations out there, but Commissioner Pridemore, I'm not going to vote for anything that says somebody who is making a living off of their property at this particular point in time is going to have to stop and retract what they're doing to 1995, because they couldn't possibly be legal since then. If you are trying to bring them in compliance with what you are adopting now, they can't get there.

PRIDEMORE: And I'm not going to vote for anything that says that if you're in business you can do anything you like and your neighbors are irrelevant in that process. So, Commissioner Stanton?

LOWRY: Well, you have to read this by also taking a look at number 3, which is intended to deal with businesses that started up after –

PRIDEMORE: Absolutely. And for me it's – you know I'll grandfather everybody up through January 1, 1995. Whatever you were doing at that time is fine. We'll grandfather that. That's exempt. Any expansion that you've done from there, or if you've started a business subsequent to that date, then I would support a three-year amnesty period for you to come into compliance with the new regulations. I think that's eminently fair. I think it, within some limits, protects and respects the rights of neighboring property owners and also businesses who played by the rules all along.

MORRIS: And if you can't come into compliance?

PRIDEMORE: If you can't come into compliance, you can't be in business doing that thing in the rural area –

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MORRIS: Okay.

PRIDEMORE: – or in the urban area as far as that goes. I'm sorry...anywhere.

MORRIS: So essentially in three years if you established your business or you expanded your business since 1995 and the new code is such that you are simply unable to come into compliance with it within three years from date of adoption, just shut down?

PRIDEMORE: Yes, and if you've expanded your business from January 1, 1995, you would have to come into – I mean you would stay in business at your 1995 activity level, so you would still be grandfathered at whatever that level was at 1995, but not the expansion.

MORRIS: So you'd have to contract.

PRIDEMORE: Yes. Presumably, yeah.

STANTON: But to come into compliance, most of those would have to retract or –

MORRIS: Yes, they would.

STANTON: – I mean, even if you didn't choose the '95 deadline --

PRIDEMORE: Yes.

STANTON: – you've set a new standard for what is allowed for home businesses and the purpose of the three year, five year, six year – whatever it is – period is to get yourself to the point that you comply with what is an acceptable home business now.

PRIDEMORE: Yes, or you relocate to a place where your level of activity is permitted.

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STANTON: Right.

LOWRY: The other provision that's not reflected in here that the board had talked about earlier in deliberations was the potential for its conditional use permit process, where you could exceed the standards if you proved up that you were causing no harm.

STANTON: So you could impose that between January 1, 1995, if somebody had increased the business footprint?

MORRIS: But we're only talking about that, so far, for heavy equipment and for auto repair. Not for anything else.

STANTON: Gordy, what would be the problem with establishing...allowing these businesses to continue to operate at the level of the business footprint – I'm guessing it would be very difficult to go back to each individual business and try to determine what it was on January 1, 1995. I mean I honestly can't even picture having to go through that process. What is the difficulty of making that date – just capping them right now? Saying the date that we adopt the ordinance, that's the cap and then – because my piece would go on beyond that and it would say that there's this period of amnesty where if your bigger than what's acceptable right now under the new standards that we're adopting, you need to ramp back down to where you are in compliance.

EULER: There's no difficulty. The difficulty, as you point out, would be to check each and every business to see what size they were on whatever date you pick in the past. That will be difficult and that's what we'd be asking business owners to do if we chose the second level here. We included it to give you a choice for purposes of discussion. Under 2-D, we say one of the following conditions is – “The business remains the size it was on _____...” You fill in the date: January 1, 1995 or the effective date of the ordinance. It further goes on to say – “A business wishing to expand where it is located, may apply for a conditional use permit to do so.” So it would make –

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STANTON: You just added that last part?

EULER: No, no, 2-D has always been there. Right in the middle of page 11.

STANTON: Oh, thank you, yes.

EULER: As I said earlier, this is the place where we apply the conditional use process. We're recognizing that the businesses were there. They may be good neighbors; they may not be, but there are other ways – through nuisance and some of the other provisions we've yet to talk about – we can catch up with them if they're not being good neighbors, but we still allow them to operate if they...again, you choose the date as to whether you want them to rent back or to pick the effective date of the ordinance. We're saying here, as proposed, whichever date you pick if your going to get bigger, you've got to go through the conditional use. We're talking all businesses, the way this is written, not just heavy equipment. This would apply to everybody. Again, that can be changed – I think we talked about this at the work session.

STANTON: So I would insert the words "...that may continue to operate" in 2, and then in 2-D it would be "...remains the size it was on the effective date of the ordinance."

MORRIS: Yeah.

LOWRY: There wouldn't be a necessity for 3; 3 would just go away.

MORRIS: Yes. And I didn't have any concerns with 1 – the Performance Standards. There was some question about the nuisance ordinance. The nuisance ordinance has been here forever and ever – and Ms. Levanen, this is mostly for you because you were very concerned about that in your last correspondence to us – but the nuisance ordinance has been on the books for a very very long time. It regulates the number of vehicles you can have stored on your property – not the home occupation ordinance – and Ms. Keltz, you

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told me one thing, maybe you can refresh my memory, how many vehicles do we allow just a person to store?

KELTZ: (Inaudible)

MORRIS: No, just regularly.

KELTZ: (inaudible)

MORRIS: We can't hear you. Could you just come up a little bit? You read this to me one time. Actually, we were out in Yacolt that day and you were telling me about the number of vehicles.

KELTZ: Commissioner Morris, I really think this probably a Rich Lowry type question because I would be only inferring from general knowledge and I would think that your vehicles would be limited by the amount of parking that was associated with the residence and its accoutrements that all legally permit it and construct it.

LOWRY: We're talking about inoperable?

KELTZ: Residential.

MORRIS: Yeah, inoperable materials; the kind of stuff that you can have hanging around.

LOWRY: Do we have...3...in the rural?

MORRIS: Yeah, and that's in the nuisance ordinance, isn't it?

UNIDENTIFIED STAFF: (inaudible)

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STANTON: No, it's not nuisance ordinance. It must be something else.

MORRIS: I thought it was the nuisance ordinance. I thought I just read that.

STANTON: We don't have a nuisance ordinance that...

MORRIS: Yes.

EULER: We added the language into – it's in Accessory; it's in 42.60. Remember...we had the comment about junk yards? So we put the language in.

MORRIS: I just read that nuisance ordinance...last night.

STANTON: We don't have one that applies to rural.

MORRIS: Let's look.

STANTON: We've got to go back and do number 4.

PRIDEMORE: John or Linda, do you know that off hand?

UNIDENTIFIED STAFF: (Inaudible)

MORRIS: Okay, they are unlimited. Because there was a comment that actually Ron Barca had pointed that out – that there's no limit on personal vehicles.

EULER: The language is now in 42.60.010 – Accessory Buildings and Uses; D says "Three or more dismantled, obsolete, or inoperable motor vehicles on one lot shall constitute an automotive recyclable materials facility as defined in this title and shall not be considered an accessory use."

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MORRIS: Well, I'm reading the nuisance ordinance and it's – "this applies on property with a rural zoning classification under Title 18 of this code..." and then it goes through them and it says, "The presence of any unattached vehicle..." – oh, those are parts... "...you can't store the parts there..." – "...or the vehicle is missing a major component such as an engine, a transmission..." – "The vehicle cannot be started and set into motion." There are limits on inoperable vehicles under the nuisance ordinance in rural areas right now.

LOWRY: Is there a limitation depending upon where they are visible from?

MORRIS: Well, yeah, visibility has a part in it. The only thing I was trying to point out to Ms. Levanen is that it isn't new. Okay. And she says she knew that. You're looking puzzled, Gordy.

EULER: I missed something here. I may need clarification. Going back to number 2 – "A home business was established on or before January 1, 1995, and has been a continuous business, may continue to operate under these conditions." Is it my understanding that we just struck number 3? Which were businesses established after January 1, 1995, but before the effective date of the ordinance. Because I just argued against what I was proposing if that's how it was taken.

MORRIS: It makes no difference to me whether the home business was started before 1995 or not, if it's in existence today, and I don't know if that's what you meant, Commissioner Stanton, or not.

STANTON: Well, what I didn't want to have happen is that it would just make them existing businesses that could keep on going even at the current capped size, and number 4 is an important one to keep.

EULER: Right. The way we did this was what I've been calling triage. If before 1995 –

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MORRIS: Before you go into the history of that, maybe it's just best for us to sort out what we want to have happen. What I would like to have happen is for all existing businesses to come in, get their permit, they can continue to operate. If they want to expand or change their footprint or do anything else, they have to come into compliance with all codes if they're not. If they don't want to change their footprint and they just keep right on doing what they're doing, they can do that. But if they do want to expand, then it would be – this reads, "...as a conditional use."

EULER: Would those all be Type I permits?

LOWRY: Other than the CU.

EULER: For other than the CU? Even if they would otherwise be major in here.

MORRIS: Well, I haven't thought that one through, but I will. I'll think. Just a minute. They just have to apply with the development criteria that's cited in both 2 and 3, B, C, and D, which I did not read to include the stormwater and erosion control ordinances and all of that. I just read those to comply with. Do I need to spend more time thinking about that?

EULER: Not necessarily. Before the effective date of the ordinance is fine, if you don't want to make a distinction. We had drawn a distinction between businesses that started in the last 10 years versus those that went further back. If we're throwing out that section, that may discombobulate some of the way that I've put this together, which is – so I was asking for clarification.

MORRIS: Well, you probably will have to rewrite the whole thing, but what are you thinking, Commissioner Stanton?

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STANTON: I was wondering why Rich suggested that 3 would go away, because it wouldn't necessarily go away. What you're trying to do is to get all businesses on the same playing field eventually, which is where I was going.

LOWRY: Right, and what I heard you to say was that you were not comfortable in requiring going back to 1995 and limit footprint to 1995; that they ought to look at their footprint today. I guess that I leapt to the assumption that that would include new businesses that had started between '95 and the effective date of this ordinance, which would mean that you'd all have one rule and not a bifurcated rule.

EULER: What we've done is basically say that since 1995 you are a new business, but if you start a business after the effective date of the ordinance – before the effective date of the ordinance, you have three years to comply. Today you don't. You'd meet the standards now. That's the difference.

LOWRY: Right, but I'm wondering whether that distinction is valid if you're saying that if you started pre-95, even though you were really small then and grew to the present day, we're going to give you the benefit of a –

EULER: An amnesty period.

LOWRY: – Not an amnesty period. A grandfather...

STANTON: A cap.

MORRIS: Right. You would grandfather them right here because many of them couldn't not come into compliance within three years. Okay. So irrespective of what these words say right here, if that's the intent, then you would need to rewrite all of this, but the question is: who comes in for a Type I and who comes in for a Type II? And what this is suggesting is that if you were legal before '95, or if you were in business before '95, no

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matter what size you are at now you come in for a Type I. But, if you started in 1996 and you may not have grown at all; you may be exactly the same size, but you started in 1996, you would have to come in for a Type II.

LOWRY: No. Actually, it's Type I on both.

EULER: This is Type I for both and the further benefit in the last 10 years is that you may have a Type II business, but you'd still get a Type I fee. So I wanted to make sure that if we were going to change that – these would all be Type I's, though a lot of people in the last 10 years may have businesses that are larger, we'd still charge them the Type I. That's the way this is written.

STANTON: So we don't want to get rid of number 3.

MORRIS: No, because you'd be treating them all exactly the same. It wouldn't make any difference when they started.

EULER: It would be treating the pre-95 different than the post-95. If we got rid of 3, you'd be treating pre-effective date of the ordinance differently than post-effective date of the ordinance. So that's a major decision.

MORRIS: These just deal with the difference in the way you treat the ones that were started before '95 then the way you treat the ones started after that, and what we've said is we're going to let them all come in where they are and stay there. We're not going to fool around with them anymore. So if that is indeed the intent, then you don't need 3.

STANTON: What I was trying to get to is trying to put caps, at some point in time, on the size. In other words, if we were to adopt this next week, that would be the effective date of the ordinance; that would become the footprint size. You couldn't get bigger than that. In whatever period we give you that is called the amnesty period over which time

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we would expect that all the businesses would come into compliance with the standards that we're adopting.

MORRIS: But some of them could never come into compliance with that. So you would be effectively – you would be essentially, effectively be doing what Commissioner Pridemore was saying.

PRIDEMORE: Actually, even more restrictive.

MORRIS: Yeah. You would effectively be saying that you can't – and Mr. Homola, we keep using you – that Mr. Homola cannot come into compliance with the new standards no matter what. So he would have to relocate or shut down. That is the question about whether or not that is your intention in what you're doing here.

LOWRY: The fundamental distinction between 2 and 3 is 2, as currently written for pre-95 uses grandfathers them in. They are recognized even though they don't comply with the standards. Under 3, 3 gives an amnesty period where if you're '95 to present, you can continue to operate for 5 years, or whatever period of time is chosen, but at the end of that amnesty period you have to come into compliance.

EULER: Both with a Type I permit.

MORRIS: Or shut down.

EULER: Or shut down. That's the difference. And we did it so there's a transition period between – as a proposal between long-time, continuously operating businesses and newbie's.

STANTON: Right. So how does that make it more restrictive than what you were proposing?

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PRIDEMORE: Under mine, if you were in business before January 1, 1995, whatever you were doing at the time on January 1, 1995, you're grandfathered. You don't have to comply, ever, with the new requirements.

STANTON: Even if you were illegally operating prior to January 1, 1995.

PRIDEMORE: It is understood that you were illegally operating. Everybody who is out there today – or dang near – is illegally operating. So I'm saying anybody before January 1, 1995, at that level – not anything you've done to expand since then – but at that level, you're grandfathered. If you came into business from January 1, 1995 through the date of the adoption of the ordinance, then you have an amnesty period – I suggest – of three years which you must come into compliance with the new regulations. If you come in after the date of adoption of the ordinance, you have to comply with them.

STANTON: So you've held harmless anybody that was in business before January 1, 1995 [tape briefly goes blank]...would have all of them than wind up having to come into compliance. I see what you're talking about. Gosh, Commissioner Pridemore, I agree with you.

MORRIS: I don't. [Laughs]

STANTON: Well, tell me why.

MORRIS: Because we are setting – anyway you look at it, the pragmatic effect of it is that we are setting new standards and we are expecting existing businesses to come into compliance with them.

STANTON: Existing since January 1, 1995? Yeah.

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MORRIS: All businesses that exist now would not be – well, yeah, we would be saying that all of those businesses – well, actually, Mr. Pridemore was saying the “1995 footprint,” so he is more restrictive because you’re saying that you would have to go back to the ’95 footprint, which we wouldn’t be able to do, but anyway the point is that anyone who has started a home business in the rural areas or in the urban areas since 1995, who could not come into compliance with the new standards – and we’re talking about limiting standards here – would have to shut down. Because there are a lot of them who simply could not ever come into compliance so they would have to shut down or move. They could not continue to operate where they were. Irrespective of what kind of a permit they’re getting.

STANTON: Well, and we haven’t finished the matrix part of it so I’m not sure, yet, there are not a lot who could not come into compliance.

PRIDEMORE: Let’s make no bones about it. It would be difficult. The ones pre-1995 would have to scale back their operations to where they were January 1, 1995, in order to grandfather. To do that would require a significant administrative burden to staff and probably to – well, actually I suspect the businesses have to have records about how many employees they had, vehicles, all that. I suspect they could prove that, but somebody would have to review all that. It is a burden; however, it’s very permissive for those activities, considering that they began illegally. That’s the distinction that I draw.

STANTON: Recognizing that additional burden, though, why wouldn’t you just choose to take any business that was established prior to January 1, 1995 and just allow them to continue? Why would you want to go back and prove up the footprint?

PRIDEMORE: Just because I –

STANTON: Or the size of the operation.

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PRIDEMORE – I think there needs to be – in order to protect the neighbors who are impacted by this, there should be some period there where...you know, I agree with people who say that if you moved next to an existing business and then start complaining about that business, I don't have a whole lot of sympathy for you. This goes back far enough where it says that if you've been there that long – the business has been there that long – it's kind of a balance between that in my mind.

LOWRY: There may be another date that's a sort of a compromise, and actually suggested by Code Enforcement, and that's to go back to when the board directed that enforcement be stopped, which was January of 2001. Obviously, the further you go back, the more difficult it's going to be.

EULER: Again, January 1, was another arbitrary date. It was the date we started the current comprehensive plan on. It would make it easier for staff if the date was moved forward. We originally proposed January 1, 2000.

MORRIS: But you don't mean the footprint. That's still a big deal to go back and try to check those footprints.

EULER: It would be difficult for us to do. It would be difficult for business owners – if they even knew how big they were at that point – to try and establish what that record is and say, "You've got to do that before we give you your permit."

STANTON: What was the date again...2001, when we said stop?

EULER: 1-1-2001.

UNIDENTIFIED STAFF: (Inaudible)

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EULER: Again, it's the dates...whatever you choose. I had originally suggested – when this came up, we used 2000, because by the time...well, by the time this was adopted...I was thinking January 1, 2005 – Five years, nice round number. But the date is your choosing.

MORRIS: Well, if you're going to pick a date, that's a more reasonable date than (inaudible) 2001 is a more reasonable date.

STANTON: Yeah it is.

EULER: It would catch fewer people. It would leave neighbors maybe not as well off as Commissioner Pridemore suggests.

PRIDEMORE: I would suggest if we're going to go back to the date when we stopped enforcing, we go back to 1973, since clearly we did not enforce for a number of decades.

[Laughs]

MORRIS: I want to talk about neighbors for just a second and whether their neighbors... that they're adjoining property owners because I do have a significant amount of sympathy for the Carlson's, who were particularly lamenting Mr. Homola, but I don't believe they live there. I believe that is property that they own, that they use for agricultural purposes to raise horses – miniature horses – and that is an allowed activity in residentially zoned land, but whether or not when we talk about a neighbor we mean somebody...I mean, do we mean somebody who lives next door? Is that a neighbor or is it just the property owners? What do we mean when we say a neighbor? When we're talking in urban areas, that's very clear because we know what a neighborhood is. That's a concept we understand. When you're in the rural areas, it's different. So I don't know where we are with that. Do we need to quit? It's one o'clock.

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STANTON: Yeah, I was just asking Louise if I can see how our work sessions look tomorrow...if we can continue. Otherwise, we can continue to next Tuesday.

MORRIS: This room is being used at one o'clock, or they need to get in to set up for something that's going on this afternoon so we do need to end and let the other people use the room.

PRIDEMORE: My recollection is that we're free at eleven o'clock tomorrow if we think we can narrow down and get staff language clarified sufficiently to consider adopting something tomorrow.

MORRIS: Well, not adopting. I think if we made substantial changes, we need to have a hearing on whatever we're looking at then. So if we're going to open the public testimony again at all, we probably ought to do it after we had this revision.

PRIDEMORE: I don't think we have made significant changes that would require additional testimony. I think all of the things that we've talked about today have been pretty fully vetted.

STANTON: I do too. Between the task force, the Planning Commission, and us, it's all stuff we've been over and over.

EULER: From staff's perspective, we've made significant strides.

LOWRY: But I think from a legal standpoint what's important is I don't think you've gone beyond what's been advertised at all. You're well within it. Obviously, if you choose to go back to public hearing you can do that, but I don't think you're legally required to.

STANTON: Craig's remembering we have eleven o'clock tomorrow morning...

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LOUISE RICHARDS: eleven to three, in that time period, tomorrow.

STANTON: Apparently, our calendars are available between eleven and three tomorrow.

MORRIS: We would be skipping Board Time, which okay with me.

PRIDEMORE: Mine is technically available, however, I really do need to get out of here as early as I can tomorrow.

STANTON: Would you rather start at eleven and try to get through it.

PRIDEMORE: I'd rather start at eleven and hope to be done by noon or one o'clock at the latest.

MORRIS: I'll need to leave at noon tomorrow. So we could work from eleven until noon.

LOWRY: Right, and obviously there's enough work for staff to do that you need to see a final version before you take any kind of final action.

MORRIS: Right, we do.

PRIDEMORE: Can staff have that done in time for the eleven o'clock tomorrow?

STANTON: Do you remember the ten-thirty work session for tomorrow? Does anybody know?

MORRIS: No, I don't.

STANTON: If it's one we can bump, we could go at ten-thirty. Louise is checking.

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PRIDEMORE: If it's possible for us to get to two tomorrow, I would prefer that we finish this.

MORRIS: Well, then we would have to continue the public hearing until tomorrow because we take the action in a public hearing.

STANTON: Right.

PRIDEMORE: Yes, that's what we're talking about. I know that Gordy would like to continue to work on this, but...

[Laughs]

STANTON: I like the way that you gave us encouragement about significant progress.

[Laughs] I know she did that all the way through the Planning Commission – “Yes, we're getting clearer direction...”

It's just Community Development Strategic Plan at 10 o'clock tomorrow.

MORRIS: Well, let's continue – is there a motion to continue this public hearing until 10 o'clock tomorrow morning?

PRIDEMORE: So moved.

STANTON: Second.

MORRIS: Moved and seconded to continue this hearing until ten o'clock tomorrow morning. All those in favor say aye.

PRIDEMORE: Aye.

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STANTON: Aye.

MORRIS: Aye. Motion carries. (See Tape 101)

Meeting adjourned.

2 p.m. Bid Openings

Present at the Bid Openings: Louise Richards, Clerk to the Board; Allyson Anderson and Priscilla Ricci, General Services

BID OPENING 2368

Held a public hearing for Bid Opening 2368 – Clark County Courthouse Painting Project. Allyson Anderson, General Services, opened and read bids and stated that it was their intention to award Bid 2368 on June 8, 2004, at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6th Floor. (See Tape 102)

BID OPENING CRP 340122

Held a public hearing for Bid Opening CRP 340122 – Hot Mix Overlays. Allyson Anderson, General Services, opened and read bids and stated that it was their intention to award Bid CRP 340122 on June 8, 2004, at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6th Floor. (See Tape 102)

BID OPENING 2369

Held a public hearing for Bid Opening 2369 – Clark County Courthouse Carpet Project. Allyson Anderson, General Services, opened and read bids and stated that it was their intention to award Bid 2369 on June 8, 2004, at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6th Floor. (See Tape 102)

BID OPENING 2371

Held a public hearing for Bid Opening 2371 – Annual Rough Mow. Allyson Anderson, General Services, opened and read bids and stated that it was their intention to award Bid 2371 on June 8, 2004, at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6th Floor. (See Tape 102)

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BOARD OF COUNTY COMMISSIONERS

Betty Sue Morris, Chair

Judie Stanton/s/
Judie Stanton, Commissioner

Craig A. Pridemore/s/
Craig A. Pridemore, Commissioner

ATTEST:

Louise Richards/s/
Clerk of the Board

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